

the Closing Date or by either party at any time after June 30, 1998, if the closing has not occurred prior to that date. The Reorganization Agreement relating to the ARK Acquired Fund may be terminated and abandoned by the ARK Board at any time prior to the Closing Date.

14. The consummation of the Reorganization will be subject to the following conditions set forth in the Reorganization Agreement: (a) the shareholders of each Acquired Fund will have approved the Reorganization Agreement; (b) applicants will have received the exemptive relief which is the subject of the application; (c) an opinion of counsel with respect to the federal income tax aspects of the Reorganization will have been received; and (d) each Acquired Fund will have declared and paid a dividend or dividends on the shares of the Acquired Fund which, together with all previous dividends, will have the effect of distributing to the shareholders of the Acquired Fund all of the Acquired Fund's investment company taxable income and tax-exempt interest income for the final taxable period and all of its net capital gains realized in the final taxable period. Applicants agree not to make any material changes to the Reorganization Agreement that affect the application without prior SEC approval.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) any person that owns 5% or more of the outstanding voting securities of such other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by such other person, (c) any person directly or indirectly controlling, controlled by or under common control with the other person, and (d) if such other person is an investment company, any investment adviser of that company.

2. Rule 17a-8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain

conditions set forth in the rule are satisfied.

3. Applicants believe that they may not rely on rule 17a-8 because the Funds may be affiliated for reasons other than those set forth in the rule. The ARK Acquired Fund and the ARK Value Equity Portfolio (the Fund into which the ARK Acquired Fund is merging) have a common investment adviser, Allied. Allied is a wholly-owned subsidiary of First National. First National Group holds of record more than 5% of the outstanding voting securities of the ARK Acquired Fund and the ARK Pennsylvania Tax-Free Portfolio and holds or shares voting and/or investment discretion with respect to more than 5% of such outstanding voting securities. Because of this ownership, the ARK Acquired Fund and the ARK Pennsylvania Tax-Free Portfolio might be deemed to be an "affiliated person" of First National under section 2(a)(3)(B) of the Act. Therefore, the Reorganization of the ARK Acquired Fund and the ARK Value Equity Portfolio may not meet the "solely by reason of" requirement of rule 17a-8.

4. The Dauphin Group holds of record more than 5% of the outstanding voting securities of the Marketvest Acquired Funds and holds or shares voting and/or investment discretion with respect to more than 5% of their outstanding voting securities. First National and Dauphin are under common ownership and control by First Maryland. By virtue of this ownership, an Acquiring Fund may be deemed to be an "affiliated person of an affiliated person" of a Marketvest Acquired Fund. Thus, the applicants are requesting an order pursuant to section 17(b) of the Act exempting them from section 17(a) to the extent necessary to consummate the proposed Reorganization.

5. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

6. Applicants submit that the terms of the Reorganization satisfy the standards set forth in section 17(b). Applicants note that the Boards, including the disinterested directors and trustees, found that participation in the Reorganization is in the best interests of each Fund and that the interests of the existing shareholders of each Fund will

not be diluted as a result of the Reorganization. Applicants also note that the exchange of the Acquired Funds' shares for the Acquiring Funds' relative net asset values.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-26832; 70-9069]

Conectiv, Inc.; Order Authorizing Acquisition of Public Utility Companies and Related Transactions; Approving Organization of Service Company Subsidiary; Authorizing Certain Affiliate Transactions; Approving Service Agreements; and Reserving Jurisdiction

February 25, 1998.

Conectiv, Inc. ("Conectiv"), a Delaware corporation not currently subject to the Public Utility Holding Company Act of 1935, as amended ("Act"), has filed an application-declaration, as amended, under sections 6(a), 7, 9, 10, 11 and 13 of the Act, and rules 80 through 91, 93 and 94, seeking approvals related to the proposed combination of Delmarva Power & Light Company ("Delmarva"), a Delaware and Virginia public utility company, and Atlantic Energy, Inc. ("Atlantic"), a New Jersey public utility holding company exempt by order under section 3(a)(1) from all provisions of the Act, except section 9(a)(2). Conectiv requests, among other things, an order under sections 9(a)(2) and 10 of the Act authorizing its acquisition of all of the issued and outstanding common stock of Delmarva and Atlantic by means of the mergers described below. Following the transactions, Conectiv will register as a holding company under section 5 of the Act.¹

The Commission issued a notice of the filing on October 3, 1997 (Holding Co. Act Release No. 26763). The Commission received a request for a hearing dated October 27, 1997, from South Jersey Gas Company ("South Jersey"), a New Jersey public utility company engaged in the transmission, distribution, transportation and sale of natural and mixed gases in New Jersey.

¹ Conectiv will file a notification of registration on Form U5A within 30 days of the merger and will file a registration statement on Form U5B within 90 days.

South Jersey filed supplemental comments on November 7, 1997. By letter dated December 22, 1997, South Jersey withdrew its request for a hearing.

I. Background

Delmarva provides electric service in Delaware, Maryland and Virginia and gas service in Delaware. As of June 30, 1997, Delmarva provided electric utility service to approximately 445,000 customers in an area encompassing about 6,000 square miles in Delaware (255,000 customers), Maryland (170,000 customers) and Virginia (20,000 customers), and gas utility service to approximately 102,000 customers in an area of about 275 square miles in northern Delaware.

Delmarva's gas facilities are located exclusively in New Castle County, Delaware. Delmarva owns gas property consisting of a liquefied natural gas plant in Wilmington, Delaware with a storage capacity of 3.045 million gallons and a maximum daily sendout capacity of 49,898 Mcf per day.² Delmarva also owns four natural gas city gate stations at various locations in its gas service territory. The stations have a total contract sendout capacity of 125,000 Mcf per day. Delmarva has 111 miles of transmission mains (including 11 miles of joint-use gas pipelines that are used 10% for gas distribution and 90% for electricity production), 1,539 miles of distribution mains and 1,091 miles of service lines.

Delmarva is engaged indirectly, through subsidiaries and affiliates, in various nonutility activities. In general, these activities include: acquisition and operation of service businesses primarily involving heating, ventilation and air conditioning sales, installation and servicing, and other energy-related activities; provision of a full-range of retail and wholesale telecommunications services; ownership and financing of an office building that its leased to Delmarva and/or its affiliates; oil and gas exploration and development; ownership of approximately 2.9% of the common stock of Chesapeake Utilities Corporation, a publicly traded gas utility company with gas utility operations in Delaware, Maryland and Florida;³ gas-related activities; and a

²The facility is used primarily as a peak-shaving facility for Delmarva's gas customers.

³The application requests the Commission to reserve jurisdiction over Conectiv's acquisition of the common stock of Chesapeake Utilities Corporation for a period of three years from the date of this order to permit Conectiv to effect an orderly disposition of the stock or otherwise comply with the requirements of the Act.

variety of unregulated investments. These activities, and the subsidiaries through which they are engaged, are described in detail in Appendix A to this order. On June 30, 1997, Delmarva's nonutility subsidiaries and investments constituted approximately 7.5% of the consolidated assets of Delmarva and its subsidiaries.

On June 30, 1997, there were 61,269,320 shares of Delmarva Common Stock, par value \$2.25 per share, outstanding and 1,253,548 shares of Delmarva preferred stock outstanding. For the fiscal year ended June 30, 1997, Delmarva's operating revenues on a consolidated basis were approximately \$1,256 million, of which approximately \$1,018 million were derived from electric operations, \$134 million from gas operations and \$104 million from other operations. Consolidated assets of Delmarva and its subsidiaries at June 30, 1997 were approximately \$2,992 million, consisting of approximately \$2,531 million in electric utility property, plant and equipment; approximately \$236 million in gas utility property, plant and equipment; and approximately \$225 million in other corporate assets.

Atlantic's principal subsidiary is Atlantic City Electric Company ("ACE"), a public utility company engaged in the generation, transmission, distribution and sale of electric energy. ACE serves a population of approximately 476,000 customers in a 2,700 square-mile area of Southern New Jersey.⁴

Delmarva and ACE have undivided ownership interests in two nuclear plants: Peach Bottom Nuclear Generating Station, a Pennsylvania facility in which each company holds a 7.51 percent interest, and Salem Nuclear Generating Station, a New Jersey facility in which each company holds a 7.41 percent interest. Delmarva and ACE also hold undivided ownership interests in two Pennsylvania coal-fired thermal units, the Keystone and Conemaugh generating stations.⁵

⁴ACE is also a holding company by reason of its ownership of Deepwater Operating Company ("Deepwater"), a public utility company. Deepwater owns no physical assets. It operates generating facilities in New Jersey for ACE.

ACE claims exemption from registration under section 3(a)(1) of the Act by rule 2. Prior to the consummation of the proposed mergers, Deepwater will be either merged into ACE or made a subsidiary of Atlantic Energy Enterprises, Inc., a holding company for Atlantic's nonutility subsidiaries.

⁵The application states that the four plants in which ACE and Delmarva hold ownership interests will account for a substantial proportion of Conectiv's generation resources, although the plants are located outside the utilities' traditional service areas.

Atlantic is engaged indirectly, through subsidiaries and associates, in a variety of nonutility activities. In general, these activities include: brokering of used utility equipment to developing countries; provision of utility consulting services related to the design of substations and other utility infrastructure; investment in leveraged leases of commercial aircraft and container ships; development and operation of independent power production projects; ownership and operation of thermal heating and cooling system; and provision of other energy-related services to business and institutional energy users. These activities, and the subsidiaries through which they are engaged, are described in detail in Appendix B to this order. As of June 30, 1997, Atlantic's nonutility subsidiaries and investments constituted approximately 8.9% of the consolidated book value of the assets of Atlantic and its subsidiaries.

As of June 30, 1997, there were 52,502,479 shares of Atlantic Common Stock, no par value, outstanding and no shares of preferred stock outstanding. For the year ended June 30, 1997, Atlantic had operating revenues on a consolidated basis of approximately \$987 million. Total assets as of June 30, 1997 were approximately \$2,758 million.

The electric service territories of ACE and Delmarva are not contiguous, and the companies are not directly interconnected. However, Delmarva and ACE, together with other members of PJM Interconnection, LLC ("PJM"), a regional power pool described below, have undivided interests in, or joint rights to use, certain 500 kv transmission facilities that are used to import power from the west and to deliver power from jointly owned power plants to their owner's systems. These facilities include a transmission line over the Delaware River and other extra-high voltage lines that directly connect the jointly owned power plant with lower voltage lines of PJM.

PJM is a "tight" power pool.⁶ The application describes PJM as the largest

⁶The Commission noted in *Untili Corp., Holding Co.* Act Release No. 25524 (April 24, 1992):

Generally, a tight power pool consists of two or more electric systems which coordinated the planning and/or operation of their bulk power facilities for the purpose of achieving greater economy and reliability in accordance with a contractual agreement that establishes each member's responsibilities.

Tight power pools have centralized dispatch of generating facilities, whereby energy and operating reserves are interchanged among the participant systems and transferred over facilities owned by the individual participants. Participants have contractual requirements relating to generating

and most sophisticated centrally dispatched electric control area in North America, and the third largest in the world.⁷ The PJM service territory includes all or part of Pennsylvania, New Jersey, Maryland, Delaware, Virginia and the District of Columbia. PJM's objectives are to ensure reliability of the bulk power transmission system and to facilitate an open-competitive wholesale electric market.

PJM became the first operational Independent System Operator⁸ in the United States on January 1, 1998, managing the PJM Open Access Transmission Tariff and facilitating the Mid-Atlantic spot market. With the implementation of the Tariff, PJM began operating the nation's first regional, bid-based energy market.

In order to achieve economy and reliability in the bulk power supply within the PJM region, PJM members coordinate the planning and operation of their systems, share installed and operating reserves to reduce installed generator requirements, and participate in centralized unit commitment, coordinated bilateral transactions, and instantaneous real-time dispatch of energy resources to meet customer load requirements throughout PJM. Within the PJM pool, there is a wholesale energy market based on a "split-the-savings" energy exchange. There is also a reciprocal sharing of capacity resources and a competitive market is transmission entitlements to import energy.

Delmarva's generation and bulk transmission, and ACE's generation and transmission facilities are operated on an integrated basis with those of other PJM members. The PJM staff centrally forecasts, schedules and coordinates the operation of generating units, bilateral transactions and the spot energy market

capacity and operating reserves, together with specific financial penalties if these requirements are not met. Sufficient transmission capacity is made available to realize the full value of operating and planning coordination.

Id. at 10, n.22.

⁷ Comparable tight pools are the New York Power Pool and the New England Power Pool ("NEPOOL").

⁸ Independent system operators are generally established to coordinate access to and delivery of electric power generated by a number of sources. The U.S. Department of Energy in an August 1997 report entitled *Electricity Prices in a Competitive Environment: Marginal Cost Pricing of Generation Services and Financial Status of Electric Utilities*, defines an "Independent System Operator" as "[a] neutral operator responsible for maintaining an instantaneous balance of the grid system. The Independent System Operator performs its function by controlling the dispatch of flexible plants to ensure that loads match resources available to the system." *Id.* at 106.

to meet load requirements.⁹ To maintain a reliable and secure electric system, PJM monitors, evaluates and coordinates the operation of over 8,000 miles of high-voltage transmission lines. Operations are closely coordinated with neighboring control areas, and information is exchanged to enable real-time security assessments of the transmission grid. PJM provides accounting services for energy, ancillary services, transmission services, and capacity reserve obligations.

Conectiv was formed to become a holding company for Delmarva and Atlantic following consummation of the proposed mergers, as contemplated by a merger agreement dated as of August 9, 1996, as amended and restated as of December 26, 1996 ("Merger Agreement"). At present, Conectiv's common stock, consisting of 1,000 issued and outstanding shares, is owned by Delmarva and Atlantic, each of which owns 500 shares. The shareholders of Delmarva and Atlantic approved the proposed mergers at their respective meetings held on January 30, 1997.

Conectiv will serve approximately 921,000 electric customers in New Jersey, Delaware, Maryland and Virginia, and 102,000 gas customers in Delaware. The service territory of the Conectiv system will extend from the Virginia portion of the Delmarva Peninsula north to Atlantic City, New Jersey and west to Wilmington, Delaware. As of, and for the fiscal year ended, June 30, 1997, the combined assets of Delmarva and Atlantic would have totalled approximately \$5.75 billion, the combined operating revenues would have totalled approximately \$2.24 billion and the combined installed generating capacity would have totalled 4417 MW.

Conectiv believes that the mergers will lead to economies of scale through the elimination of duplicate facilities and positions, integration of corporate and administrative programs, improved purchasing and production capacity and reserves, and generally more efficient operations. Conectiv estimates that the mergers could result in net cost savings of more than \$500 million during the ten-year period following the mergers. Conectiv expects approximately 59.55% of the savings to occur through labor reductions in redundant positions,

⁹ The PJM staff coordinates the planning of generation to meet combined peak loads of the control area. They coordinate planning of the interconnected bulk power transmission system to deliver energy reliably and economically to customers. PJM conducts many specialized planning studies within the pool and with surrounding entities.

4.48% from reduced facilities, 21.51% from economies of scale and cost avoidance in corporate and administrative programs, 9.64% from purchasing economies for non-fuel materials and supplies, and 4.82% from purchasing economies for fuel and power purchases.

Under the Merger Agreement, DS Sub, Inc., a Delaware direct subsidiary of Conectiv formed for purposes of the merger,¹⁰ will be merged with and into Delmarva, with Delmarva as the surviving corporation ("Delmarva Merger"), and Atlantic will be merged with and into Conectiv, with Conectiv as the surviving corporation ("Atlantic Merger" and, together with Delmarva Merger, "Mergers"). As a result of the Mergers, Delmarva and its direct subsidiaries and certain direct subsidiaries of Atlantic will become direct subsidiaries of Conectiv, and Conectiv will be a holding company within the meaning of the Act.

Upon consummation of the Mergers, each issued and outstanding share of Delmarva Common Stock will be converted into the right to receive one share of Conectiv common stock ("Conectiv Common Stock") ("Delmarva Conversion Ratio"). Each issued and outstanding share of Atlantic common stock ("Atlantic Common Stock") will be converted into the right to receive 0.75 shares of Conectiv Common Stock ("Atlantic Conversion Ratio") and 0.125 shares of Class A common stock of Conectiv ("Conectiv Class A Common Stock").¹¹ Based on the capitalization and the Delmarva Conversion Ratio and the Atlantic Conversion Ratio, the shareholders of Delmarva and Atlantic would own securities representing approximately 60.6% and 39.4%, respectively, of the outstanding shares of the Conectiv Common Stock, and the shareholders of Atlantic would own 100% of the outstanding shares of the Conectiv Class A Common Stock.

The Conectiv Class A Common Stock is a "letter" or "tracking" stock, designed to track the performance of the currently regulated electric utility business of ACE ("Targeted Business").¹² The application states that the Conectiv Class A Common Stock, which will be issued only to the holders

¹⁰ The authorized capital stock of DS Sub consists of 1000 shares of common stock, \$0.01 par value, all of which is held by Conectiv.

¹¹ The outstanding shares of preferred stock of Delmarva and Atlantic will not be affected.

¹² In conjunction with the Mergers and the findings and recommendations of the New Jersey Commission on April 30, 1997, on the restructuring of the New Jersey electric industry, ACE expects to move all of its currently nonregulated operations out of ACE. ACE would retain only the Targeted Business.

of the Atlantic Common Stock, allocates proportionately more of the risks associated with the Targeted Business to Atlantic's current stockholders and, at the same time, provides them the opportunity to participate in proportionately more of the growth prospects of the Targeted Business. The Merger Agreement provides, subject to declaration by the Conectiv Board of Directors, and its obligation to react to the financial condition and regulatory environment of the company and its results of operations, that the dividends declared and paid on the Conectiv Class A Common Stock will be maintained at a level of \$3.30 per share per annum until the earlier of July 1, 2001, or the end of the twelfth calendar quarter in which the Mergers become effective ("Initial Period"). The application-declaration states, that after the Initial Period, Conectiv intends to pay dividends to the holders of the Conectiv Class A Common Stock at a rate equal to 90% of net earnings attributable to the Targeted Business in excess of \$40 million.¹³ Through the use of the tracking stock, the holders of Atlantic Common Stock will retain more than half the benefits and risks relating to the Targeted Business after the Mergers.

Holders of the Conectiv Class A Common Stock will not have any specific rights or claims against the businesses, assets and liabilities of the Targeted Business, other than as common stockholders of Conectiv. Holders will be subject to risks associated with an investment in Conectiv and all of its businesses, assets and liabilities. Both holders of Conectiv Common Stock and holders of Conectiv Class A Common Stock will be entitled to one vote per share on all matters submitted to a vote at any meetings of stockholders, subject to the rights, if any, of holders of any outstanding class of preferred stock. The holders of Conectiv Common Stock and the holders of Conectiv Class A Common Stock will vote as one class for all purposes, except as may otherwise be required by the laws of Delaware.¹⁴

¹³ The Merger Agreement further provides that, and to the extent that, the annual dividends, paid on the Conectiv Class A Common Stock during the Initial Period exceeds 100% of Conectiv's earnings attributable to the Targeted Business in excess of \$40 million per year during the Initial Period, the Conectiv Board may consider this fact in determining the appropriate annual dividend rate on the Conectiv Class A Common Stock following the Initial Period.

¹⁴ There are also special provisions governing the conversion and redemption of the Conectiv Class A Common Stock, either at the discretion of Conectiv or in the event of a merger, tender offer or disposition of all or substantially all of the assets of the Targeted Business. A more complete description of the Conectiv Class A Common Stock

Both the Class A Common Stock and the Common Stock will be publicly traded, will have full voting rights and will be able to be evaluated through regular periodic filings under the Securities Exchange Act of 1934.¹⁵ The Conectiv Class A Common Stock will have no preference or accrual rights. Further, the Conectiv Class A Common Stock will have the same priority in liquidation as the Common Stock.

The application explains that the use of two classes of Conectiv common stock was proposed during the merger negotiations as a means to address the merger partners' differing evaluations of the growth prospects of, and uncertainties associated with deregulation of, ACE's regulated electric utility business. The Boards of Delmarva and Atlantic determined that the use of tracking stock was necessary to bridge the companies' differing views concerning the appropriate conversion ratio for a business combination.

Delmarva currently has in place a long-term incentive plan and Atlantic has in place an equity incentive plan. Upon completion of the Mergers, a Conectiv plan will replace both plans.¹⁶ The Conectiv plan provides for a maximum number of five million shares of Conectiv Common Stock available for issuance under the plan.

Prior to the consummation of the Mergers, Conectiv will form a subsidiary service company, Conectiv Resource Partners, Inc. ("Conectiv Resource") (formerly Support Conectiv, Inc.), to serve the Conectiv system companies.¹⁷ Conectiv Resource will provide a variety of administrative, management,

is provided in the "Description of the Company's Capital Stock" on pages 75 to 97 of the Joint Proxy filed as Exhibit C-2 to the application. Risk factors associated with the dual class capital structure are also discussed extensively in the Joint Proxy on pages 14 to 22 under the heading "Risk Factors."

¹⁵ The notes to the consolidated financial statements of Conectiv will include condensed financial information of ACE. Complete financial statements of ACE will continue to be filed with the Commission under the Securities Exchange Act of 1934 and will be available to Conectiv stockholders upon request.

¹⁶ On January 30, 1997, the shareholders of Delmarva and Atlantic approved the Conectiv Incentive Compensation Plan, a comprehensive cash and stock compensation plan providing for the grant of annual incentive awards as well as long-term incentive awards such as restricted stock, stock options, stock appreciation rights, performance units, dividend equivalents and other types of awards as the committee of the Conectiv Board that will administer the plan deems appropriate.

¹⁷ Conectiv Resource's authorized capital stock will consist of up to 3,000 shares of common stock, \$1 par value per share. Conectiv requests authorization to acquire the voting securities of Conectiv Resource as part of the Mergers. Conectiv will hold all issued and outstanding shares of Conectiv Resource common stock.

engineering, construction, environmental and support services, including services relating to electric power planning, electric system operations, materials management, facilities and real estate, accounting, budgeting and financial forecasting, finance and treasury, rates and regulation, legal, internal audit, corporate communications, environmental matters, fuel procurement, corporate planning, investor relations, human resources, marketing and customer services, information systems and general administrative and executive management services.¹⁸

Conectiv Resource will enter into a service agreement with each associate company to which it renders services ("Service Agreement").¹⁹ In accordance with the Service Agreement, services provided by Conectiv Resource will be directly assigned, distributed or allocated to an associate company by activity, project, program, work order or other appropriate basis. Employees of Conectiv Resource will record transactions utilizing the existing data capture and accounting systems of each client associate company. Costs of Conectiv Resource will be accumulated in accounts of Conectiv Resource and directly assigned, distributed and allocated to the appropriate client company in accordance with the guidelines set forth in the Service Agreement.

It is anticipated that Conectiv Resource will be staffed by the transfer of current personnel of Delmarva, Atlantic and their subsidiaries. Conectiv Resource's accounting and cost allocation methods and procedures will be structured so as to comply with the Commission's standards for service companies in registered holding company systems. Conectiv states that the Service Agreement is structured so as to comply with section 13 of the Act and the Commission's rules and regulations under the Act. Thus, charges for all services provided by Conectiv Resource to associate companies will be

¹⁸ No change in the organization of Conectiv Resource, the type and character of the companies to receive services, the methods of allocating costs to associate companies, or the scope or character of services shall be made unless and until Conectiv Resource has given the Commission written notice of the proposed change not less than 60 days prior to the proposed effectiveness of the change. If, upon receipt of such notice, the Commission notifies Conectiv Resource within the 60-day period that a question exists as to whether the proposed change is consistent with the provisions of section 13 of the Act or related rules, Conectiv Resource will be required to file a declaration and the proposed change shall not become effective until authorized by order of the Commission.

¹⁹ See Exhibit B-2 to the application.

on an at-cost basis, as determined under rules 90 and 91 under the Act.

The interested state regulatory authorities have approved the proposed Mergers and/or related matters. The Virginia State Corporation Commission approved the Mergers by order dated August 6, 1997. The Delaware Public Service Commission approved the Mergers by order dated September 23, 1997, the Pennsylvania Public Utility Commission, by order dated October 2, 1997, authorized the transfer of control of ACE and Delmarva to Conectiv through a transfer of stock. The New Jersey Board of Public Utilities approved the Mergers by order dated December 30, 1997. The Maryland Public Service Commission approved the Mergers by order dated July 16, 1997. The Federal Energy Regulatory Commission ("FERC") approved the proposed Mergers on July 30, 1997.²⁰ The Nuclear Regulatory Commission approved the transfer of the nuclear power licenses to Conectiv by order dated December 18, 1997. Delmarva and Atlantic filed Premerger Notification and Report Forms with the Antitrust Division of the U.S. Department of Justice and the Federal Trade Commission under the Hart-Scott-Rodino Antitrust Improvements Act of 1976. The applicable waiting period expired on August 25, 1997 without any comments being provided on the filing.

Fees and expenses in the estimated amount of \$19,318,060 are anticipated in connection with the proposed transaction.

II. Discussion

The proposed acquisition by Conectiv of all of the issued and outstanding common stock of Delmarva and of Atlantic requires prior Commission approval under sections 9(a)(2) and 10 of the Act. The various issuances and sales of securities,²¹ and related acquisitions of securities, involved in the Mergers are subject to sections 6(a) and 7, and 9(a)(1) and 10 respectively, of the Act. The proposed service agreements are subject to section 13 of the Act and rules 80-91, 93 and 94. The Commission has reviewed the proposed transactions and finds that the requirements of the Act are satisfied, except as to the matter over which jurisdiction is reserved.

²⁰ See *Atlantic City Power Electric Company and Delmarva Power & Light Company*, Dkt. No. EC97-7-01 (July 30, 1997).

²¹ These transactions include the issuance of Conectiv Common Stock in exchange for shares of Delmarva and Atlantic Common Stock and the issuance of Conectiv Class A Common Stock for Atlantic Common Stock.

A. Statutory Integration Requirements

As a preliminary matter, it is necessary to determine the extent to which the proposed principal system of Conectiv, *i.e.*, the combined electric properties of Delmarva and Atlantic, is an integrated public utility system within the meaning of section 2(a)(29)(A) of the Act. The Commission's application of the integration requirements of section 10(c)(1) of the Act, and by reference, section 11(b)(1), is central to its authorization of the proposed acquisition by Conectiv of Delmarva and Atlantic. Once this question is decided, it is necessary to consider whether Conectiv may own the Delmarva gas integrated system as an additional system.

1. Integration Standards

Section 10(c)(1) requires the Commission not to approve an acquisition that "would be detrimental to the carrying out of the provisions of section 11."²² Section 11(b)(1) of the Act, in turn, generally confines the utility properties of a registered holding company to a "single integrated public-utility system," either gas or electric, as discussed below.²³

²² The Commission has interpreted this provision to bar a utility acquisition by a registered (or to-be-registered) holding company that would not be permissible under section 11(b)(1) of the Act. See, *e.g.*, *Electric Bond and Share Co.*, 33 S.E.C. 21, 31, (1952).

Section 10(c)(1) further prohibits Commission approval of an acquisition that "is unlawful under the provisions of section 8." Section 8 prohibits an acquisition by a registered holding company of an interest in an electric utility and a gas utility serving substantially the same territory without the express approval of the state commission when the state's law prohibits or requires approval of the acquisition.

New Jersey, Virginia, Delaware and Pennsylvania law do not prohibit the proposed ownership by Conectiv of both gas and electric properties. As previously noted, all of the interested state utility commissions have approved the proposed merger and/or related matters.

²³ The limitation in intended to eliminate evils that Congress found to exist "when the growth and extension of holding companies bears no relation to * * * the integration and coordination of related operating properties." Section 1(b)(4) of the Act. Congress believed that, "in the absence of clearly overriding considerations a utility system should have a management single-mindedly devoted to advancing the interests of its investors and consumers and not engaged, through the means of the holding company device, in operating other utility or non-utility businesses." *New England Electric System*, 41 S.E.C. 888 (1964), *rev'd*, *SEC v. New England Electric System*, 346 F.2d 399 (1st Cir. 1966), *rev'd and remanded*, 384 U.S. 176 (1965), *on remand*, 376 F.2d 107 (1st Cir. 1967), *rev'd*, 390 U.S. 207 (1968).

The "other business" clauses of section 11(b)(1) further limit the nonutility businesses of a registered holding company to those that are "reasonably incidental, or economically necessary or appropriate to the operations of such integrated

Section 2(a)(29)(A) defines an integrated public-utility system, as applies to electric utility properties, to mean:

a system consisting of one or more units of generating plants and/or transmission lines or distributing facilities, whose utility assets, whether owned by one or more electric utility companies, are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair * * * the advantages of localized management, efficient operations, and the effectiveness of regulation.

Section 2(a)(29)(B) defines an integrated public-utility system, as applied to gas utility properties, to mean:

a system consisting of one or more gas utility companies which are so located and related that substantial economies may be effectuated by being operated as a single coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair * * * the advantages of localized management, efficient operations, and the effectiveness of regulation: *Provided*, That gas utility companies deriving natural gas from a common source of supply may be deemed to be included in a single area or region.

In view of the separate definitions and their differing criteria, the Commission has long held that gas and electric properties do not together constitute an integrated system.²⁴

2. The Combined Electric Properties

On the basis of the statutory definition of an electric integrated public utility system, the Commission has established four standards that must be met before the Commission will find that an integrated public system will result from a proposed acquisition of securities:

- (1) The utility assets of the system are physically interconnected or capable of physical interconnection;
- (2) The utility assets, under normal conditions, may be economically operated as a single interconnected and coordinated system;
- (3) The system must be confined in its operations to a single area or region; and
- (4) The system must not be so large as to impair (considering the state of the art and the area or region affected) the advantages of

public-utility system," on a finding by the Commission that the interests are "necessary or appropriate in the public interest or for the protection of investors of consumers and not detrimental to the proper functioning" of the integrated system.

²⁴ *SEC v. New England Electric System*, 384 U.S. at 178, n.7 and the cases cited in the decision.

localized management, efficient operation, and the effectiveness of regulation.²⁵ The combined electric properties satisfy each of these four requirements.

The Commission has previously determined that the physical interconnection requirement of the Act can be satisfied on the basis of contractual rights to use third parties' transmission lines, when the merging companies are members of a tight power pool.²⁶ In addition, Delmarva and ACE are interconnected through their undivided ownership interests in, and/or rights to use, the same regional generation facilities and extra-high voltage facilities, as well as through their contractual rights to use the transmission facilities of other members of the PJM regional power pool. Although it would be possible to construct a transmission line directly interconnecting Delmarva and ACE, Conectiv believes that such action is unnecessary because present transmission arrangements provide adequate service.²⁷

The proposed Mergers also satisfy the requirement that the utility assets, under normal conditions, may be "economically operated as a single interconnected and coordinated system."²⁸ The Commission has interpreted this language to refer to the physical operation of utility assets as a system in which, among other things, the generation and/or flow of current within the system may be centrally controlled and allocated as need or economy directs.²⁹ In approving the acquisition of Public Service Company of New Hampshire by Northeast Utilities, the Commission noted that "the operation of generating and transmitting facilities of PSNH and the Northeast operating companies is coordinated and centrally dispatched

²⁵ *Environmental Action, Inc. v. SEC*, 895 F.2d 1255, 1263 (9th Cir. 1990), citing *Electric Energy, Inc.*, 38 S.E.C. 658, 668 (1958).

²⁶ *Unitil Corp.*, Holding Co. Act Release No. 25524 (Apr. 24, 1992).

²⁷ See *Unitil Corp.*, Holding Co. Act Release No. 25524, citing *Electric Energy Inc.*, 38 S.E.C. at 669 (direct interconnection not required in circumstances that would have resulted in an uneconomic duplication of transmission facilities).

²⁸ See *Cities Services Co.*, 14 S.E.C. 28, 55 (1943) (Congress intended that the utility properties be so connected and operated that there is coordination among all parts, and that those parts bear an integral operating relationship to one other).

²⁹ *North American Co.*, 11 S.E.C. 194, 242 (1942), *aff'd on constitutional issues*, 327 U.S. 686 (1946). The Commission explained that "even though we find physical interconnection exists or may be effected, evidence is necessary that in fact the isolated territories are or can be so operated in conjunction with the remainder of the system that central control is available for the routing of power within the system." *Id.*

under the NEPOOL Agreement."³⁰ Similarly, in *Unitil Corp.*, the Commission concluded that the combined electric utility assets of the companies may be operated as a single interconnected and coordinated system through their participation in NEPOOL.³¹ In this matter, in addition to coordinated operation through PJM, Conectiv will have a central operating transmission and generation control center in Newark, Delaware. For these reasons, Conectiv will be able to operate its combined electric utility assets as a single interconnected and coordinated system.

The Commission's third and fourth requirements are also satisfied. The Conectiv electric system will operate in a single area or region in four contiguous states in the Mid-Atlantic region.³² The system will not be so large as to impair "the advantages of localized management, efficient operations, and the effectiveness of regulation." After the Mergers, Conectiv will maintain system headquarters in Wilmington, Delaware. This structure will preserve the benefits of localized management and the system, as described above, will facilitate efficient operations. Delmarva and ACE will continue to exist as subsidiaries of Conectiv, and their utility operations will remain subject to their respective state commissions. Delmarva and Atlantic have received the requisite orders from these regulators as a condition precedent to consummating the proposed Mergers.

The Commission finds that the combined electric properties of Delmarva and Atlantic will constitute an integrated public utility system. The Commission has further determined that the proposed acquisition by Conectiv of this electric integrated system will "ten[d] towards the economical and efficient development of an integrated public-utility system," and so satisfy the requirement of section 10(c)(2) of the Act.

B. Proposed Ownership of Delmarva's Gas Operations

In addition to the principal electric integrated electric system, Conectiv proposes to acquire and retain the integrated gas public utility system of Delmarva.³³ Although section 11(b)(1)

³⁰ *Northeast Utilities*, Holding Co. Act Release No. 25221 at n.85, *modified*, Holding Co. Act Release No. 25273 (Mar. 15, 1991), *aff'd sub nom. City of Holyoke v. SEC*, 972 F.2d 358 (D.C. Cir. 1992).

³¹ *Unitil Corp.*, Holding Co. Act Release No. 25524.

³² While Conectiv will have ownership interests in Pennsylvania, its service area will be limited to Virginia, Maryland, Delaware and New Jersey.

³³ As noted previously, Conectiv requests the Commission to reserve jurisdiction over Conectiv's

generally limits a registrant to ownership of a single integrated system, an exception to this requirement is provided in section 11(b)(1)(A)-(C) ("ABC clauses"). A registered holding company may own one or more additional systems, if each system meets the criteria of these clauses. Specifically, the Commission must find that (A) the additional system "cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system," (B) the additional system is located in one or adjoining states, and (C) the combination of systems under the control of a single holding company is "not so large * * * as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation."³⁴ The Commission has repeatedly held that a registered holding company cannot own properties that are not part of its principal integrated system unless they satisfy the ABC clauses.³⁵ Only clause A is at issue here.³⁶

1. Requirements of Clause A

The Commission has construed the provisions of clause A to require an affirmative showing by a registrant that an additional system could not be operated under separate ownership without a loss of economies "so important as to cause a serious impairment of that system," and "substantial in the sense that they were important to the ability of the additional system to operate soundly."³⁷ The Commission has applied this standard

acquisition of the Chesapeake Utilities Corporation stock for a period of three years from the date of this order to permit Conectiv to effect an orderly disposition of the stock or otherwise comply with the requirements of the Act.

³⁴ *North American Co.*, 11 S.E.C. at 206; and *New Century Energies, Inc.*, Holding Co. Act Release No. 26748 (Aug. 1, 1997).

³⁵ See, e.g. *United Gas International Co.*, 9 S.E.C. 52, 65 (1941) (section 11(b)(1) permits more than one integrated system only if the additional system or systems meets the standards of the ABC clauses; a utility subsidiary is not retainable as part of an additional system unless those clauses are satisfied). See also *Philadelphia Co.*, 28 S.E.C. 35, 46 (1948), *aff'd*, 177 F.2d 720 (D.C. Cir. 1949), *accord New Century Energies, Inc.*, Holding Co. Act Release No. 26748.

³⁶ As explained below, the proposed acquisition of the gas integrated system does not raise any issues under clauses B or C.

³⁷ *New England Electric System*, 41 S.E.C. at 892-93. The Commission has variously phrased the rule under clause A. See *SEC v. New England Electric System*, 384 U.S. at 181 (citing, among other orders, *Philadelphia Co.*, 28 S.E.C. at 46 ("For the economies to be 'substantial,' they must be 'important' in the sense that they are of such nature that their loss would cause a serious economic impairment of the system.")).

to the additional system in question, in light of the relevant facts and circumstances. In his matter, based on the relevant facts and circumstances, the Commission finds that the additional system may be owned and operated by Conectiv after the Mergers are consummated.³⁸

Conectiv prepared and submitted a supplemental severance study ("Severance Study") with respect to the gas operations. The analysis focuses upon the increases in operating costs that would result from divestiture.

In *New England Electric System* and earlier cases, the Commission took the approach of examining the substantiality of the estimated loss in relation to total revenues, expenses and income resulting from divestiture. The Commission suggested in an early leading decision that cost increases resulting in a 6.78% loss of operating revenues, a 9.72% increase in operating revenue deductions, a 25.44% loss of gross income and a 42.46% loss of net income would afford an "impressive basis for finding a loss of substantial economies."³⁹ The Severance Study indicates that the ratios in this matter are significantly higher than guidelines established in Commission precedent and thus would result in greater loss of economies if the gas system were severed. The record indicates that the cost increases that would result from severance of the gas operations here would satisfy, and in all instances exceed, those thresholds.⁴⁰ As set forth in the Severance Study, divestiture of the gas operation into a stand-alone company would result in lost economies of \$14.7 million. On a percentage basis, the Severance Study indicates that divestiture of the gas operations would amount to 14.07% of gas operating revenues, 17.4% of gas operating revenue deductions, 73.42% of gross gas income and 105.88% of net gas income.

In order to recover these lost economies, the Severance Study indicates that the new stand-alone company would need to increase customer rates by about 14.8% (\$15.5 million) in order to provide an 9.36% rate of return on rate base.⁴¹ In the

³⁸ See *New England Electric System*, 41 S.E.C. at 893 ("a registrant seeking to retain an additional system has the burden of showing by clear and convincing evidence that such additional system cannot be operated under separate ownership without the loss of economies so important as to cause a serious impairment of that system").

³⁹ *Engineers Public Service Co.*, 12 S.E.C. 41 (1942), *rev'd on other grounds and remanded*, 138 F.2d 936 (D.C. Cir. 1943), *vacated as moot*, 332 U.S. 788 (1947).

⁴⁰ See Exhibit J-I to the application.

⁴¹ 9.36% is the effective cost of capital for the stand-alone gas business, based on use of the

absence of rate relief, the Severance Study concludes that the lost economies would result in a 3.35% rate of return on rate base for the gas operations, a rate greater than the 2.01% projected stand-alone rate of return in *Unitil Corp.*, where retention was authorized.⁴²

To the extent that competition between competing sources of energy remains a concern, the Commission notes that section 10(b)(1) of the Act, among other things, prohibits an acquisition that would result in "the concentration of control of public-utility companies, of a kind or to an extent detrimental to the public interest or the interest of investors or consumers." The Commission's analysis under section 10(b)(1) includes consideration of federal antitrust policies. In addition, the FERC and the Antitrust Division of the U.S. Department of Justice, which typically have concomitant jurisdiction over merger transactions, consider the anticompetitive consequences of the proposed transaction.⁴³ As previously noted, the FERC gas approved the proposed Mergers and no comments were received in conjunction with the Hart-Scott-Rodino filing.

The Commission finds that the requirements of clause A are satisfied with respect to Conectiv's ownership of the Delmarva gas operations as an additional integrated system.

2. Requirements of Clauses B and C

The proposed acquisition of the gas integrated system does not raise any issues under clauses B or C. With respect to clause B, the principal electric system to Conectiv will be located in New Jersey, Delaware, Maryland and Virginia; the additional gas system will be located in an adjoining state—Delaware. As required by clause C, the combination of systems under the ownership of Conectiv will not be "so large * * * as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation."

C. Proposed Nonutility Interests of Conectiv

Section 11 (b)(1) limits the nonutility interests of a registered holding company to those that are "reasonably incidental, or economically necessary or appropriate to the operations of such integrated public-utility system." The

weighted average approximate costs for capital of Delmarva as of September 30, 1996.

⁴² See *Unitil Corp.*, Holding Co. Act Release No. 25524.

⁴³ Under section 203 of the Federal Power Act, the FERC "shall approve" a merger if it is "consistent with the public interest." See *Gulf States Utilities Co. v. FPC*, 422 U.S. 747, 758 (1973).

Commission must find that the interests are "necessary or appropriate in the public interest or for the protection of investors or consumers and not detrimental to the proper functioning" of the integrated system. The Commission has interpreted these provisions to require the existence of an operating or functional relationship between the utility operations of the registered holding company and its nonutility activities.⁴⁴ With respect to new acquisitions, the Commission has interpreted section 10(c)(1) of the Act to mean that "any property whose disposition would be required under section 11(b)(1) may not be acquired."⁴⁵

The Commission has examined the various nonutility interests that Conectiv seeks to acquire and has concluded that the statutory requirements for ownership are satisfied. The Commission has further concluded that Delmarva's and Atlantic's existing investments in these activities, as of the date of consummation of the Mergers, should be disregarded for purposes of calculating the dollar limitation upon investment in energy-related companies under new rule 58.⁴⁶ As in previous similar matters involving to-be-registered holding companies, the Commission reaches this conclusion in view of the fact that the Mergers partners were not subject to the restrictions that section 11(b)(1) and relevant Commission precedent places upon the nonutility investments of registered system companies.⁴⁷

D. Proposed Dual Class of Equity Stock of Conectiv

As discussed previously, the Merger Agreement contemplates that Delmarva stockholders will receive one share of Conectiv Common Stock in exchange for each share of Delmarva Common Stock. Atlantic stockholders will receive 0.75 shares of Conectiv Common Stock and 0.125 shares of a tracking stock,

⁴⁴ See generally *Michigan Consolidated Gas Co.*, 444 F.2d 913 (D.C. Cir. 1971).

⁴⁵ *Texas Utilities Co.*, 21 S.E.C. 827, 829 (1946) (denying approval to acquisition of transportation company by registered holding company).

⁴⁶ See *Holding Co.* Act Release No. 26667 (Feb. 14, 1997), 62 FR 7900 (Feb. 20 1997) (adopting rule 58).

⁴⁷ See, e.g., *New Century Energies, Inc.*, Holding Co. Act Release No. 26748 (proposed combination of utility and exempt holding company and stand-alone utility). The Act is silent concerning nonutility diversification by exempt holding companies, such as Atlantic, and the Commission has never determined the limits upon diversification by these companies. See, e.g., *Pacific Lighting Corp.*, 45 S.E.C. 152 (1973) (two commissioners held that the nonutility activities of exempt holding companies should complement the utility operations; two other commissioners proposed guidelines under which utility activities would be separated from nonutility activities).

Conectiv Class A Common Stock, in exchange for each share of Atlantic Common Stock.

As explained above, the proposed issuance of tracking stock in this matter represents a means by which Delmarva and Atlantic addressed the difference in their evaluations of the overall impact of the growth prospects of, and uncertainties associated with deregulation of, the regulated electric utility business of Atlantic. The use of tracking stock in connection with the Mergers addresses the concerns of the managements of the merger partners and allows the respective stockholders of Delmarva and Atlantic to gain, as shareholders of Conectiv, the level of exposure that the companies' managements have deemed advisable to the growth prospects of the regulated utility business of Atlantic and the uncertainties associated with deregulation of that business.

Conectiv seeks authorization for issuance of the Conectiv Class A Common Stock under Section 7(c)(2)(A) of the Act. Section 7(c)(2)(A) provides for the issuance of securities "solely * * * for the purpose of effecting a merger."⁴⁸ Section 7(d) of the Act provides in pertinent part, that if the requirements of section 7(c) are satisfied, the Commission shall permit a declaration regarding the issue or sale of a security to become effective unless the Commission finds that:

(1) The security is not reasonably adapted to the security structure of the declarant and other companies in the same holding company system;

(2) The security is not reasonably adapted to the earning power of the declarant;

(3) Financing by the issue and sale of the particular security is not necessary or appropriate to the economical and efficient operation of a business in which the applicant lawfully is engaged or has an interest; [or]

* * * * *

(6) The terms and conditions of the issue or sale of the security are detrimental to the public interest or the interest of investors or consumers.⁴⁹

⁴⁸The Commission notes that section 7(c)(1) provides that a declaration regarding the issuance of securities by a registered holding company cannot become effective unless it relates to certain specified types of securities including "a common stock * * * being without preference as to dividends or distribution over * * * any outstanding security of the [holding company]." Because authorization of the issuance of the Class A Common Stock is sought under section 7(c)(2), the Commission does not have to reach the question of whether the dividend rate of the stock constitutes a "preference as to dividends" for purposes of section 7(c)(1).

⁴⁹Section 7(d)(4) requires the Commission to find that the fees, commissions, or other remuneration, to whomsoever paid, directly or indirectly, in connection with the issue, sale, or distribution of

The Commission has also considered whether the Class A Common Stock would give rise to any abuse that the Act is intended to prevent.⁵⁰ Various provisions of the Act are intended to ensure that a holding company system does not have an unnecessarily complicated capital structure or that voting power is unfairly or inequitably distributed among system security holders.⁵¹ In these respects, it does not appear that the issuance of the Class A Common Stock would be detrimental to the interests of investors or consumers. There will be no effect on the legal title to Conectiv assets or the responsibilities for the liabilities of Conectiv or its subsidiaries.⁵² The Class A Common Stock will be directly linked to the performance of the Targeted Business and thus adapted to the earning power of Conectiv. The Class A Common Stock will be subject to the requirements of the other federal securities laws and will be listed on the New York Stock Exchange.⁵³ The Class A Common Stock has all of the attributes of common

the security are not reasonable. Section 7(c)(5) addresses the issuance of a guarantee or other assumption of liability.

⁵⁰Section 1(c) of the Act directs the Commission to interpret all the provisions of the Act to meet the problems and eliminate the evils enumerated in section 1(a).

⁵¹See sections 10(b) of the Act (Commission is not to approve an acquisition that "will unduly complicate the capital structure of the holding-company system" or be "detrimental to the public interest, the interests of investors or consumers or the proper functioning of [the] holding-company system"); 10(c)(1) (Commission is not to approve an acquisition that would be detrimental to the carrying out of the provisions of section 11"); and 11(b)(2) (Commission is to ensure that the corporate structure of a registered holding company "does not unduly complicate the structure, or unfairly or inequitably distribute voting power among security holders"). See, e.g., *American Power & Light Co. v. SEC*, 329 U.S. 90 (1946) (upholding constitutionality of section 11(b)(2) and affirming orders requiring the dissolution of two subholding company subsidiaries of a registered holding company on the grounds of undue capital complexity).

⁵²Pennsylvania was the only state to exercise jurisdiction over the transfer of stock involved in the Mergers. The order of the Pennsylvania Public Utility Commission approved the issuance of the Conectiv Class A Common Stock.

⁵³The Commission has noted that: Concerns with respect to investors have been largely addressed by developments in the federal securities laws and in the securities markets themselves. Registered holding companies are subject to extensive reporting requirements under the Act. In addition, the securities of those companies are publicly held and are registered under the Securities Act of 1933. The companies are subject to the continuous disclosure requirements of the Securities Exchange Act of 1934. * * * The interest of investors is protected not only by the requirements of this Act but also by the disclosure requirements of these other statutes.

Southern Co., Holding Co. Act Release No 25639 (Sept. 23, 1992).

stock, particular voting rights.⁵⁴ The only voting securities of Conectiv that will be publicly held after the Mergers will be Common Stock and Class A Common Stock. In addition to common stock of Delmarva, all of which will be held by Conectiv, Delmarva will continue to have 1,253,548 shares of outstanding voting preferred stock (not including 2.8 million shares of Quarterly Income Preferred Securities). The only class of voting securities of Conectiv's direct and indirect nonutility subsidiaries will be common stock. The shareholders of both Delmarva and Atlantic approved the proposed Mergers.

Set forth below are summaries of the historical capital structure of Delmarva and Atlantic as of June 30, 1997 and the *pro forma* consolidated capital structure of Conectiv as of June 30, 1997:

DELMARVA AND ATLANTIC HISTORICAL CONSOLIDATED CAPITAL STRUCTURES
[Dollars in thousands]

	Delmarva	Atlantic
Common Stock Equity	\$942,322	\$782,688
Preferred stock not subject to mandatory redemption	89,703	30,000
Preferred stock subject to mandatory redemption	70,000	113,950
Long-term Debt	923,710	786,187
Total	2,025,735	1,712,825.

CONECTIV PRO FORMA CONSOLIDATED CAPITAL STRUCTURE
[Dollars in thousands, unaudited]

	Conectiv
Common Stock (incl. additional paid in capital)	\$1,461,721
Class A Common Stock	136,840
Retained Earnings	*266,630
Preferred stock not subject to mandatory redemption (of subsidiaries)	119,703
Preferred stock subject to mandatory redemption (of subsidiaries)	183,950
Long-term Debt	1,709,897

⁵⁴*Compare Cities Service Co.*, 34 S.E.C. 28, 33-34 (1956) (Commission found an unfair and inequitable distribution of voting power in conflict with the standards of section 11(b)(2) where Class A stock represented approximately 46% of the combined common and Class A equity of the company, and the public holdings of Class A stock alone amounted to 35% of the combined equity, but the Class A had no voting power).

CONECTIV PRO FORMA CONSOLIDATED
CAPITAL STRUCTURE—Continued

[Dollars in thousands, unaudited]

	Conectiv
Total	3,878,741

*The *pro forma* consolidated capital structure of Conectiv has been adjusted to reflect future nonrecurring charges directly related to the Mergers, which result in, among other things, the recognition of additional current liabilities and a reduction in retained earnings.

Conectiv's *pro forma* consolidated common equity to total capitalization ratio of 48% comfortably exceeds the "traditionally acceptable 30% level."⁵⁵

In view of all these considerations, the Commission has concluded that sections 7(d), 10(b) and 10(c) of the Act do not require any negative findings.

III. Conclusion

The Commission has carefully examined the application under the applicable standards of the Act, and has concluded that the proposed issuances, sales and acquisitions and related transactions are consistent with those standards. The Commission has reached these conclusions on the basis of the complete record before it.

Due notice of the filing of the application-declaration has been given in the manner prescribed in rule 23 under the Act, and no hearing has been requested of or ordered by the Commission. Upon the basis of the facts in the record, it is hereby found that, except as to the matter over which jurisdiction has been reserved, the applicable standards of the Act and rules are satisfied, and that no adverse findings are necessary:

It is ordered, under the applicable provisions of the Act and rules under the Act, that, except as to the matter over which jurisdiction has been reserved, the application-declaration, as amended, is, granted and become effectively immediately, subject to the terms and conditions prescribed in rule 24 under the Act;

It is further ordered, that jurisdiction is reserved over Conectiv's ownership of Chesapeake Utilities Corporation for up to three years from the date of this order; and

It is further ordered, that Conectiv will file a post-effective amendment no later than the end of that three-year period requesting the Commission to dispose of the matter over which jurisdiction is reserved, in the event that the matter is not moot.

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

Margaret H. McFarland,

Deputy Secretary.

Appendix A

Delmarva

Delmarva has seven direct nonutility subsidiaries: Delmarva Services Company, Delmarva Energy Company ("DEC"), Conectiv Services, Inc. ("CSI"), Conectiv Communications, Inc., Delmarva Capital Investments, Inc. ("DCI"), Conectiv Solutions LLC ("Solutions") and East Coast Natural Gas Cooperative, L.L.C. ("ECNG").

1. *Delmarva Services Company*. Delmarva Services Company, a Delaware corporation and a direct subsidiary of Delmarva, was formed in 1986 to own and finance an office building that it leases to Delmarva and/or its affiliates.¹ Delmarva Services Company also owns approximately 2.9% of the common stock of Chesapeake Utilities Corporation, a publicly-traded gas utility company with gas utility operations in Delaware, Maryland and Florida.²

2. *DEC*. DEC, a Delaware corporation and a direct subsidiary of Delmarva, was formed in 1975. It is currently engaged, directly and through its subsidiary, in rule 58 energy marketing activities.

Conectiv/CNE Energy Services LLC, a Delaware limited liability company in which DEC holds a 50% interest, was formed in 1997 to engage in rule 58 energy marketing activities in the New England states.³

3. *CSI*, directly and through subsidiaries, provides a wide range of energy-related goods and services to industrial, commercial and residential customers. CSI is engaged in the design, construction and installation, and maintenance of new and retrofit heating, ventilating, and air conditioning ("HVAC"), electrical and power systems, motors, pumps, lighting, water and plumbing systems, and related structures as approved by the Commission.⁴

a. *Power Consulting Group, Inc.*, a Delaware corporation, was formed in 1997 to provide electrical engineering, testing and maintenance services to large commercial and industrial customers.⁵

¹ See *UNITIL Corp.*, Holding Co. Act Release No. 25524 (Apr. 24, 1992) (subsidiary that had acquired real estate to support the system's utility operations deemed to be retainable under the standards of section 11(b)(1)).

² As noted previously, Conectiv has requested that the Commission reserve jurisdiction over the Chesapeake stock for a period of three years from the date of this order to permit Conectiv to effect an orderly disposition of the Chesapeake stock.

³ See rule 58(b)(1)(v) (subject to certain conditions, no Commission approval is required for a registered holding company to acquire the securities of a company that derives substantially all of its revenues from "the brokering and marketing of energy commodities, including but not limited to electricity or natural or manufactured gas or other combustible fuels"). See also *New Century Energy, Inc.*, Holding Co. Act Release No. 26784 (Aug. 1, 1997).

⁴ See *Cinergy Corp.*, Holding Co. Act Release No. 26662 (Feb. 7, 1997) ("Cinergy Solutions Order").

⁵ Subject to certain conditions, rule 58(b)(1)(ii) exempts the acquisition of the securities of a

b. *Conectiv Plumbing, L.L.C.*, a Delaware limited liability company owned 90% by CSI, provides plumbing services primarily in connection with the CSA HVAC business. Conectiv Plumbing, L.L.C. was formed in 1998 in connection with the acquisition of an HVAC company. Under New Jersey law, an individual with a New Jersey master plumbing license must hold at least a 10% equity interest in a company providing plumbing services in New Jersey. To meet this requirement, the bulk of the acquired company's HVAC business was retained within CSI but the related and incidental plumbing services were spun down to a new subsidiary, Conectiv Plumbing, L.L.C., that is 10% owned by a master plumber.

4. *Conectiv Communications, Inc.*, a Delaware corporation and a direct subsidiary of Delmarva, was formed in 1996 to provide a full-range of retail and wholesale telecommunications services.⁶

5. *DCI*, a Delaware corporation and a direct subsidiary of Delmarva, was formed in 1985 to be a holding company for the following unregulated investments. In addition DCI acts as a vehicle for the development and sale of properties that are not currently used or useful in the utility business.⁷

a. *DCI I, Inc.*, a Delaware corporation and a wholly owned subsidiary of DCI formed in 1985 to invest in leveraged leases.⁸

b. *DCI II, Inc.*, a Virgin Islands corporation and a wholly owned foreign sales subsidiary of DCI formed in 1985 to be involved in equity investments in leveraged leases.⁹

company that derives substantially all of its revenues from "[t]he development and commercialization of electrotechnologies related to energy conservation, storage and conversion, energy efficiency, waste treatment, greenhouse gas reduction, and similar innovations." See also *Allegheny Power System, Inc.*, Holding Co. Act Release No. 26085 (July 14, 1994) (investments in technologies related to power conservation and storage, conservation and load management, environmental and waste treatment, and power-related electronic systems and components).

⁶ Section 34 of the Act provides an exemption from the requirement of prior Commission approval for the ownership by a registered holding company of interests in companies engaged in a broad range of telecommunications activities and businesses. Section 34 permits ownership of interests in telecommunications companies engaged exclusively in the business of providing telecommunications service upon application to the Federal Communications Commission for a determination of "exempt telecommunications company" status. Conectiv Communications, Inc. is an exempt telecommunications company under section 34 of the Act.

⁷ DCI is managing real estate that was acquired for an intended utility purpose that has ceased to exist, to enable the utility to obtain the necessary rights of way for transmission lines and other utility operations. Unlike many other states, Delaware does not provide a right of condemnation for a franchised electric utility. Rather, the utility is often forced to acquire the underlying fee simple for a larger parcel in order to obtain an easement or right of way. The development and sale of these properties is a means of recovering the costs associated with their acquisition.

⁸ See *Central and South West Corp.*, Holding Co. Act Release No. 23578 (Jan. 22, 1985) (approving leveraged lease investments by a registered holding company)

⁹ *Id.*

⁵⁵ *Northeast Utilities*, Holding Co. Act Release No. 25221.

c. DCTC-Burney, Inc., a Delaware corporation and a wholly owned subsidiary of DCI formed in 1987 to invest in "qualifying facilities."¹⁰

i. Forest Products, L.P., a Delaware limited partnership, in which DCTC-Burney, Inc. is the sole 1% general partner, and which is a general partner in Burney Forest Products, A Joint Venture.

ii. Burney Forest Products, A Joint Venture, a California general partnership which is owned by DCTC-Burney, Inc. and Forest Products, L.P. The partnership owns a wood-burning qualifying facility in Burney, CA. DCTC-Burney, Inc.'s total direct and indirect ownership interest is 45%.

d. Luz Solar Partners, Ltd. IV, a California limited partnership which owns a solar-powered generating station in Southern California in which DCI owns a 4.7% limited partnership interest.¹¹

e. UAH-Hydro Kennebec, L.P., a New York limited partnership which owns a hydro-electric project in which DCI owns a 27.5% limited partnership interest.¹²

f. Christiana Capital Management, Inc., a Delaware corporation and a wholly owned subsidiary formed in 1987, which owns an office building leased to associates.¹³

g. Delmarva Operating Services Company, a Delaware corporation and a wholly owned subsidiary of DCI formed in 1987, operates and maintains the following qualifying facilities under contracts with the plants' owners: the Delaware City Power Plant in Delaware City, DE; a qualifying facility in Burney, CA; and a qualifying facility in Sacramento, California, owned by the Sacramento Power Authority under a subcontract with Siemens Power Corporation.¹⁴

6. *Solutions*, a Delaware limited liability company, is jointly owned by Delmarva and Atlantic. *Solutions* was formed in 1997 to provide, directly or through subsidiaries, power systems consulting, end use efficiency services, customized on-site systems services and other energy services to large commercial and industrial customers.¹⁵ *Solutions*,

directly or through subsidiaries, provides energy management services, often on a turnkey basis. Energy management services may involve the marketing, sale, installation, operation and maintenance of various products and services related to the business of energy management and demand-side management, and may include energy audits; facility design and process enhancements; construction, maintenance and installation of, and training client personnel to operate energy conservation equipment; design, implementation, monitoring and evaluation of energy conservation programs; development and review of architectural, structural and engineering drawings for energy efficiencies; design and specification of energy consuming equipment; and general advice on programs.¹⁶ *Solutions* also provides conditioned power services, that is, services designed to prevent, control, or mitigate adverse effects of power disturbances on a customer's electrical system to ensure the level of power quality required by the customer, particularly with respect to sensitive electronic equipment, again as approved by the Commission.¹⁷

Solutions also markets comprehensive asset management services, on a turnkey basis or otherwise, in respect of energy-related systems, facilities and equipment, including distribution systems and substations, transmission facilities, electric generation facilities (stand-by generators and self-generation facilities), boilers, chillers (refrigeration and coolant equipment), HVAC and lighting systems, located on or adjacent to the premises of a commercial or industrial customer and used by that customer in connection with its business activities, as previously permitted by the Commission.¹⁸ *Solutions* also provides these services to qualifying and non-qualifying cogeneration and small power production facilities under the Public Utility Regulatory Policies Act of 1978 ("PURPA").¹⁹

Solutions provides consulting services to associate and nonassociate companies. The consulting services may include: technical and consulting services involving technology assessments, power factor correction and harmonics mitigation analysis, meter reading

and repair, rate schedule design and analysis, environmental services, engineering services, billing services, risk management services, communications systems, information systems/data processing, system planning, strategic planning, finance, feasibility studies, and other similar or related services.²⁰ *Solutions* also offer marketing services to nonassociate business in the form of bill insert and automated meter-reading services, as well as other consulting services, such as how to set up a marketing program.²¹

Solutions provides service Line repair and extended warranties with respect to all of the utility or energy-related services lines that enter a customer's house, as well as utility bill insurance and other similar or related services.²² *Solutions* may also provide centralized bill payment centers for "one stop" payment of all utility and municipal bills, and annual inspection, maintenance and replacement of any appliance.²³ *Solutions* also is engaged in the marketing and brokering of energy commodities, including retail marketing activities.²⁴

Solutions also provides other goods and services, from time to time, related to the consumption of energy and maintenance of property by those end-users, where the need for the service arises as a result of, or evolves out of, the above services and the incidental services do not differ materially from the enumerated services.²⁵

In connection with its activities, *Solutions* from time to time may form new subsidiaries to engage in the above activities, or acquire the securities or assets of nonassociate companies that derive substantially all of their revenues from the above activities.

Provision of the above goods and services, which are closely related to the system's core energy business, is intended to further Conectiv's goal of becoming a full-service energy provider.

7. *ECNG*, a Delaware limited liability company in which Delmarva holds a 1/7th interest, is engaged in gas-related activities. Delmarva participates in *ECNG* to make bulk purchases of gas in order to improve the efficiency of its natural gas local distribution operations.²⁶

²⁰ See The *Cinergy Solutions* Order; see also rule 58(b)(1)(vii) (relating to the sale of technical, operational, management, and other similar kinds of services and expertise, developed in the course of utility operations).

²¹ See *Consolidated Natural Gas Co., Holding Co.* Act Release No. 26757 (Aug. 27, 1997) (the "1997 CNG Order").

²² See the *Cinergy Solutions* Order.

²³ See *Consolidated Natural Gas Co., Holding Co.* Act Release No. 26363 (Aug. 28, 1995).

²⁴ See *supra* note 3.

²⁵ See the 1997 CNG Order.

²⁶ *ECNG* members provide emergency backup natural gas supplies to other members and jointly undertake the bulk purchase and storage of natural gas for use in their local distribution business. Because these activities are functionally related to the operations of the gas utility business of Delmarva, *ECNG* is retainable by Conectiv under section 11(b)(1). Further, upon Commission approval of the Mergers, *ECNG* will be exempt from all obligations, duties or liabilities imposed upon it by the Act as a subsidiary company or as an affiliate of a registered holding company or of a subsidiary company. See rule 16 under the Act.

¹⁰ A "qualifying facility" is defined under the Public Utility Regulatory Policies Act of 1978, as amended ("PURPA"). Subject to certain conditions, Rule 58(b)(1)(viii) exempts the acquisition of the securities of a company that is primarily engaged in "the development, ownership or operation of 'qualifying facilities' * * *, and any integrated thermal, steam host, or other necessary facility constructed, developed or acquired primarily to enable the qualifying facility to satisfy the useful thermal output requirements under PURPA." See also *New Century Energies, Inc., Holding Co.* Act Release No. 26748 (Aug. 1, 1997); *Entergy Corp., Holding Co.* Act Release No. 26322 (June 30, 1995); *Southern Co., Holding Co.* Act Release No. 26212 (Dec. 30, 1994); *Central and South West Corp., Holding Co.* Act Release No. 26156 (Nov. 3, 1994); *Central and South West Corp., Holding Co.* Act Release No. 26155 (Nov. 2, 1994); and *Northeast Utilities, Holding Co.* Act Release No. 25977 (Jan. 24, 1994).

¹¹ *Id.*

¹² *Id.*

¹³ See *Unitil Corp., Holding Co.* Act Release No. 25524 (Apr. 24, 1992).

¹⁴ See *supra* note 9.

¹⁵ Upon consummation of the proposed transactions, *Solutions* will become a wholly-owned subsidiary of Conectiv.

¹⁶ Subject to certain conditions, rule 58(b)(1)(i) exempts the acquisition of the securities of a company that derives substantially all of its revenues from "[t]he rendering of energy management services and demand-side management services" See also *Eastern Utilities Associates, Holding Co.* Act Release No. 26232 (Feb. 15, 1995); *Northeast Utilities, Holding Co.* Act Release No. 25114-A (July 27, 1990) and *New England Electric System, Holding Co.* Act Release No. 22719 (Nov. 19, 1982).

¹⁷ See *supra* note 4.

¹⁸ *Id.*

¹⁹ See rule 58(b)(1)(viii) (an energy-related company can engage in the development, ownership or operation of "qualifying facilities," as defined under PURPA, and any integrated thermal, steam host, or other necessary facility constructed, developed or acquired primarily to enable the qualifying facility to satisfy the useful thermal output requirements of PURPA). *Solutions* will not undertake any Asset Management Service without further Commission approval if, as a result thereof, *Solutions* would become a public utility company within the meaning of the Act.

Delmarva also has a nonutility subsidiary trust, Delmarva Power Financing I ("DPFI"), which was formed in 1996 in connection with the issuance by Delmarva of Cumulative Quarterly Income Preferred Securities.

Appendix B

Atlantic

Atlantic has three direct nonutility subsidiaries, Atlantic Energy International, Inc. ("AEII"), Atlantic Energy Enterprises, Inc. ("AEE"), and Solutions.¹

1. *AEII*, a Delaware corporation, is a direct subsidiary of Atlantic formed in 1996 to broker used utility equipment to developing countries and to provide utility consulting services related to the design of sub-stations and other utility infrastructure. This subsidiary will wind down its business by June 30, 1998.

2. *AEE*, a New Jersey corporation, is a direct subsidiary of Atlantic formed in 1995 to be a holding company for Atlantic's non-regulated subsidiaries. Through its six wholly owned subsidiaries, and 50% equity interest in Enerval, LLC, a natural gas marketing venture, AEE has pursued growth opportunities in energy-related fields, that will complement Atlantic's existing businesses and customer relationships.

a. *ATE*, a New Jersey corporation and a wholly owned subsidiary of AEE formed in 1986, holds and manages capital resources for AEE. ATE's primary investments are equity investments in leveraged leases of three commercial aircraft and two container ships.² ATE owns a 94% limited partnership interest in EnerTech Capital Partners L.P., a limited partnership that will invest in and support a variety of energy technology growth companies.³

b. *AGI*, a New Jersey corporation and a wholly owned subsidiary of AEE formed in 1986. AGI develops, owns and operates independent power production projects.⁴

i. *Pedrick Ltd., Inc.*, a New Jersey corporation and a wholly owned subsidiary of AGI, formed in 1989 to hold a 35% limited partnership interest in Pedricktown Cogeneration Limited Partnership.

ii. *Pedrick Gen., Inc.*, a New Jersey corporation and a wholly owned subsidiary of AGI, formed in 1989 to hold a 15% general partnership interest in Pedricktown Cogeneration Limited Partnership.

¹ ACE has a very small home security business, with annual revenues of less than \$10,000, that is located exclusively in its service territory. The business incurs few costs at this point. Accordingly, Conectiv seeks to retain this business under section 11(b)(1). Although it is currently operated within ACE, it may be moved to a separate subsidiary of Conectiv. If this occurs, the subsidiary will apply for exempt telecommunications company status under section 34.

² See *Central and South West Corp., Holding Co.* Act Release No. 23588 (Jan. 22, 1985).

³ Activities involving "the development and commercialization of electrotechnologies related to energy conservation, storage and conversion, energy efficiency, waste treatment, greenhouse gas reduction, and similar innovations" are energy-related activities within the meaning of rule 58(b)(1)(ii). See also *New Century Energies, Holding Co.* Act Release No. 26748 (Aug. 1, 1997).

⁴ See *supra* note 9.

iii. *Vineland Limited, Inc.*, a Delaware corporation and a wholly owned subsidiary of AGI, formed in 1990 to hold a 45% limited partnership interest in Vineland Cogeneration Limited Partnership.

iv. *Vineland General, Inc.*, a Delaware corporation and a wholly owned subsidiary of AGI, formed in 1990 to hold a 5% general partnership interest in Vineland Cogeneration Limited Partnership.

v. *Binghamton General, Inc.*, a Delaware corporation and a wholly owned subsidiary of AGI, formed in 1990 to hold a 10% general partnership interest in Binghamton Cogeneration Limited Partnership, whose assets have been sold to a third party.

vi. *Binghamton Limited, Inc.*, a Delaware corporation and a wholly owned subsidiary of AGI, formed in 1990 to hold a 35% limited partnership interest in Binghamton Cogeneration Limited Partnership, whose assets have been sold to a third party.

c. *ATS*, a Delaware corporation and a wholly owned subsidiary of AEE, formed in 1994. ATS and its subsidiaries develop, own and operate thermal heating and cooling systems. ATS also provides other energy-related services to business and institutional energy users. ATS has made investments in capital expenditures related to district heating and cooling systems to serve the business and casino district in Atlantic City, NJ. ATS is also pursuing the development of thermal projects in other regions of the U.S.⁵

i. *Atlantic Jersey Thermal Systems, Inc.*, a Delaware corporation and wholly owned subsidiary formed in 1994, that owns a 10% general partnership interest in TELPI (as defined below).

ii. *ATS Operating Services, Inc.*, a Delaware corporation and a wholly owned subsidiary formed in 1995 that provides thermal energy operating services.

iii. *Thermal Energy Limited Partnership I ("TELPI")*, a Delaware limited partnership wholly owned by Atlantic Thermal and Atlantic Jersey Thermal Systems, that holds an investment in the Midtown Energy Center. The Midtown Energy Center, which produces steam and chilled water, represents the initial principal operations of ATS.

Currently, TELPI is operating the heating and cooling equipment of several businesses in Atlantic City, NJ. Some of these businesses will be served by the ATS district system once it is in commercial operation and others will continue to be served independently by ATS.

iv. *Atlantic Paxton Cogeneration, Inc.*, a wholly owned subsidiary that is currently inactive and expected to be dissolved sometime in 1998.

v. *Atlantic-Pacific Glendale, LLC*, a Delaware limited liability company in which

⁵ Subject to certain conditions, rule 58(b)(1)(vi) exempts the acquisition of the securities of a company that derives substantially all of its revenues from "the production, conversion, sale and distribution of thermal energy products, such as process steam, heat, hot water, chilled water, air conditioning, compressed air and similar products; alternative fuels; and renewable energy resources; and the servicing of thermal energy facilities." See also *New Century Energies, Holding Co.* Act Release No. 26748 (Aug. 1, 1997); *Cinergy Corp., Holding Co.* Act Release No. 26474 (Feb. 20, 1996).

ATS holds a 50% interest, was formed in 1997 to construct, own and operate an integrated energy facility to provide heating, cooling and other energy services to DreamWorks Animation, LLC in Glendale, California.

vi. *Atlantic-Pacific Las Vegas, LLC*, a Delaware limited liability company in which ATS holds a 50% interest, was formed in 1997 to finance, own and operate an integrated energy plant to provide heating and cooling services to three affiliated customers in Las Vegas, Nevada.

d. *CCI*, a Delaware corporation and a wholly owned subsidiary of AEE formed in 1995 to pursue investments and business opportunities in the telecommunications industry.⁶

e. *ASP*, a New Jersey corporation and a wholly owned subsidiary of AEE formed in 1970 that owns and manages certain investments in real estate, including a 280,000 square-foot commercial office and warehouse facility in southern New Jersey. Approximately fifty percent of the space in this facility is currently leased to system companies and fifty percent is leased to nonaffiliates.⁷

f. *AET*, a Delaware corporation and a wholly owned subsidiary of AEE formed in 1991. AET is currently winding up its sole investment in technology. The Earth Exchange, Inc., which is nominal. There are no future plans for investment activity at this time by AET.

g. *Enerval*, a Delaware limited liability company. In 1995, AEE and Cenerprise, Inc., a subsidiary of Northern States Power established Enerval, formerly known as Atlantic CNRG Services, LLC. AEE and Cenerprise each own 50 percent of Enerval. Enerval provides energy management services, including natural gas procurement, transportation and marketing. Discussions are underway for the purchase of AEE of Cenerprise's interest.⁸

3. *Solutions*, a Delaware limited liability company that is jointly owned by Delmarva and Atlantic, was formed in 1997 to provide, directly or through subsidiaries, power systems consulting, end use efficiency services, customized on-site systems services and other energy services to large commercial and industrial customers.⁹

ACE also has a nonutility subsidiary trust, Atlantic Capital I ("ACT"), which was formed in 1996 in connection with the issuance by ACE of Cumulative Quarterly Income Preferred Securities.

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⁶ It is contemplated that CCI will be merged with and into Conectiv Communications, Inc. See *supra* note 5.

⁷ See *Central Power and Light Co., Holding Co.* Act Release No. 26408 (Nov. 13, 1995).

⁸ See *supra* note 15.

⁹ Upon consummation of the proposed transactions, Solutions will become a wholly owned subsidiary of Conectiv.