

If the employee's adjusted retained rate:	Then:
(ii) Exceeds the maximum rate of the highest applicable rate range and the employee is not in a special rate category.	Convert the employee's unadjusted retained rate to a GS-equivalent retained rate.
(iii) Exceeds the maximum rate of the highest applicable rate range and the employee is in a special rate category.	Convert the employee's adjusted retained rate to a GS-equivalent retained rate.

D. Within-grade increase "equivalent increase" determinations—Service under a broadbanding system is creditable for within-grade increase purposes upon conversion to the GS pay system. Basic pay increases (excluding general structural increases) under a broadbanding system are "equivalent increases" for the purpose of determining the commencement of a within-grade increase waiting period under 5 CFR 531.405(b). A performance-based increase in basic pay of any amount (including a zero increase) is considered an "equivalent increase" for this purpose.

[FR Doc. 99-18191 Filed 7-15-99; 8:45 am]

BILLING CODE 6325-01-P

## RAILROAD RETIREMENT BOARD

### Appointment of an Examiner and Request for Views and Comments: Public Hearing

**AGENCY:** Railroad Retirement Board.

**ACTION:** Notice.

**SUMMARY:** Pursuant to 20 CFR Part 258 the Railroad Retirement Board has appointed an examiner to consider the following issue: Whether an entity, which itself does not operate a line of railroad, but which leases to or contracts with another entity to operate all or part of a line of railroad should be considered an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act.

**DATES:** A hearing will be held to receive views and comments on this issue on August 19, 1999, at 10 a.m. (CDT) at the headquarters of the Railroad Retirement Board, Room 836, 844 North Rush Street, Chicago, Illinois 60611. Notice of appearance and summary of proposed testimony must be received by August 12, 1999, in order to present oral testimony. Otherwise, written views and comments must be received by August 20, 1999.

**ADDRESSES:** Send views, comments, or notice of appearance and summary of proposed testimony to Thomas W. Sadler, Designated Hearing Examiner, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

**FOR FURTHER INFORMATION CONTACT:** Thomas W. Sadler, Designated Hearing Examiner, (312) 751-4513.

**SUPPLEMENTARY INFORMATION:** The Railroad Retirement Board is an

independent agency in the executive branch of the Federal government which administers the Railroad Retirement Act and Railroad Unemployment Insurance Act. These statutes provide retirement, disability and unemployment benefits to railroad workers and their families. Benefits are financed primarily by taxes levied on employers and employees under the Acts.

Under the Railroad Retirement Act the term "employer" includes any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under part A of subtitle IV of title 49 of the United States Code. 45 U.S.C. 231(a)(1). A similar provision is found in the Railroad Unemployment Insurance Act. 45 U.S.C. 351(a) and (b). The Railroad Retirement Board, through appointment of an examiner, now requests views and comments on whether an entity, which itself does not operate a line of railroad, but which leases to or contracts with another entity to operate all or part of a line of railroad should be considered an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act. *See*, Railroad Ventures, Inc., reconsideration currently pending before this Board.

In framing your views and comments, you should consider what factors, if any, should be considered in deciding whether the lessor or non-operating entity is an employer. Some factors which the Railroad Retirement Board has considered in the past in making such determinations are:

(a) Whether the non-operating entity has previously been determined to be an employer under the Acts;

(b) Whether the non-operating entity has the capability to operate a railroad;

(c) Whether the non-operating entity is a government entity;

(d) Whether the non-operating entity by agreement or law must maintain the rail line;

(e) Whether the non-operating entity by agreement or law must adopt alterations, improvements or betterments to the rail line;

(f) Whether the non-operating entity is required by agreement or law to operate the rail line in event of default of the operating entity; and

(g) Whether the non-operating entity has any employees.

Dated: July 9, 1999.

By Authority of the Board.

For the Board,

**Beatrice Ezerski,**

*Secretary to the Board.*

[FR Doc. 99-18135 Filed 7-15-99; 8:45 am]

BILLING CODE 7905-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27047]

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

July 9, 1999.

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

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 3, 1999, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After August 3, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### **Sempre Energy, et al. (70-9511)**

Sempre Energy ("Sempra"), 101 Ash Street, San Diego, California 92101, a California holding company exempt from regulation under section 3(a)(1) of

the Act,<sup>1</sup> and its wholly owned subsidiary, Bangor Pacific, Inc. ("Bangor Pacific"), 555 West Fifth Street, Suite 2900, Los Angeles, California 90013-1001 (collectively, "Applicants"), have filed an application under sections 3(a)(1), 9(a)(2) and 10 of the Act.

Applicants seek authority for Sempra to acquire indirectly, through Bangor Pacific, a Maine corporation, a 50% membership interest in Bangor Gas Company, LLC ("Bangor Gas"), a Maine limited liability company formed in 1997 to construct and operate a gas distribution system in the greater Bangor, Maine area. In addition, Applicants seek an order under section 3(a)(1) of the Act exempting Sempra, Bangor Pacific and each of their subsidiary companies from all provisions of the Act, except section 9(a)(2).

Sempra has two principal subsidiaries, Pacific Enterprises ("Pacific") and Enova Corporation ("Enova"), each of which is an exempt holding company under section 3(a)(1) of the Act. Pacific's sole utility subsidiary is Southern California Gas Company ("SoCalGas"), which purchases, transports and distributes natural gas at retail to approximately 4.8 million customers within a service territory of 23,000 square miles in central and southern California. Enova is the parent company of San Diego Gas and Electric Company ("SDG&E"). SDG&E is engaged in the generation, transmission, distribution, and sale of electricity and the distribution and sale of natural gas. SDG&E serves approximately 1.2 million electricity customers within a franchised service territory that includes San Diego County and southern Orange County, California, and provides natural gas service to more than 700,000 customers in San Diego County. SoCalGas and SDG&E are subject to regulation by the California Public Utilities Commission.

For the year ended December 31, 1998, Sempra reported consolidated operating revenues of \$5.481 billion, of which \$2.772 billion represented gas utility revenues (including revenues from transporting customer-owned gas) and \$1.865 billion represented electric revenues. At December 31, 1998, Sempra had total assets of approximately \$10.456 billion, of which \$5.441 billion consisted of net utility (electric and gas) plant. During 1998, the total gas throughput on the Sempra system was 962 Bcf, of which 521 Bcf (or about 54%) represented deliveries of customer-owned gas for which the

company provides only transportation service. Electric sales in 1998 totaled 17,955 million kWhrs.

Sempra also has an indirect public-utility subsidiary, Frontier Energy, LLC ("Frontier Energy"), a North Carolina limited liability company. Frontier Energy is completing construction of a new gas utility distribution system in a four-county area of western North Carolina.

Sempra's principal nonutility subsidiaries include Sempra Energy Trading Corp. ("Sempra Trading"), a marketer of natural gas, electricity, and other energy products, and Sempra Energy Utility Ventures ("SEUV"), which currently owns all of the outstanding voting securities of Bangor Pacific. SEUV engages in the acquisition, development, and operation of regulated energy utilities in the eastern United States and Canada. SEUV was instrumental in completing the development of the Frontier Energy system in North Carolina and has been directly involved, in cooperation with Bangor Hydro-Electric Company ("Bangor Hydro-Electric"), an exempt holding company, in the planning and development of the Bangor Gas system.

Through Bangor Pacific, Sempra has indirectly acquired 50% of the membership interests in Bangor Gas. The remaining membership interests in Bangor Gas have been acquired by Penobscot Natural Gas Company, Inc. ("Penobscot Gas"),<sup>2</sup> a Maine corporation and a subsidiary of Bangor Hydro-Electric, an electric utility company which serves portions of eastern Maine.

The Maine Public Utilities Commission ("MPUC") has granted Bangor Gas full authority and unconditional certification to construct, own and operate a gas distribution service system in Bangor, Maine and several nearby towns. The MPUC also approved terms of a proposed Support Services Agreement among Bangor Gas, SEUV and Bangor Hydro-Electric under which SEUV and Bangor Hydro-Electric will provide various administrative, engineering, operations, marketing, risk management, finance, accounting and other management services to Bangor Gas at or below market rates, as well as a financing plan for Bangor Gas.

Bangor Gas commenced construction of the new system in the greater Bangor area during the second quarter of 1998. When completed, the system will consist of approximately 25 miles of

transmission mains and at least 200 miles of distribution mains. The system will interconnect directly with the Maritimes & Northeast Pipeline, which is currently under construction with a planned in-service date of November 1999. Bangor Gas, when it commences operation in late 1999 or early 2000, will be a "gas utility company" within the meaning of section 2(a)(4) of the Act. Bangor Gas estimates that, by the end of the tenth year following commencement of construction, it will serve up to 13,000 residential, commercial, and industrial customers in a 70 square-mile area in Maine having an estimated population of 75,000. Bangor Gas will be subject to regulation by the MPUC. Based on current projections, the 50% share of Bangor Gas's revenues attributable to Sempra is expected to account for far less than 1% of the consolidated utility revenues of Sempra on a *pro forma* basis. Thus, Sempra states that it will not derive any material part of its income from Bangor Gas.

Following the proposed transactions, Sempra contends that it and each of its material utility subsidiaries, will be organized in California. Applicants contend that they, and each of their subsidiaries, will qualify for a section 3(a)(1) exemption upon consummation of the proposed transactions because they and each of their material public utilities are, and will continue to be, intrastate in character and will continue to carry on their businesses substantially in California, the state in which each is organized.

#### **Bangor Hydro-Electric Company, et al. (70-9509)**

Bangor Hydro-Electric Company ("Bangor Hydro-Electric"), 33 State Street, Bangor, Maine 04401, a Maine holding company exempt from registration under section 3(a)(2) of the Act by rule 2 under the Act, and its wholly owned subsidiary, Penobscot Natural Gas Company ("Penobscot Gas"), 21 Main Street, Bangor, Maine 04401 (collectively, "Applicants"), have filed an application under sections 3(a)(1), 9(a)(2) and 10 of the Act.

Applicants seek authority for Bangor Hydro-Electric to acquire indirectly, through Penobscot Gas, a 50% membership interest in Bangor Gas Company, LLC ("Bangor Gas"), a Maine limited liability company formed in 1997 to construct and operate a gas distribution system in the greater Bangor, Maine area. In addition, Applicants seek an order under section 3(a)(1) of the Act exempting Bangor Hydro-Electric, Penobscot Gas and each of their subsidiary companies from all

<sup>1</sup> See *Sempra Energy, Holding Co. Act Release No. 26890* (June 26, 1998).

<sup>2</sup> Bangor Hydro-Electric has filed an application under sections 3(a)(1), 9(a)(2) and 10 of the Act requesting, among other things, authorization to acquire a 50% interest in Bangor Gas. See File No. 70-9509.

provisions of the Act, except section 9(a)(2).

Bangor Hydro-Electric is engaged in the purchase, transmission and distribution of electricity in eastern Maine. Bangor Hydro-Electric is also a holding company by reason of its ownership of 14.188% of the outstanding common stock of Maine Electric Power Company ("Maine Electric"), a Maine corporation that owns and operates a 345 kilovolt transmission line extending between Wiscasset, Maine and the Maine-New Brunswick international border at Orient, Maine.<sup>1</sup>

For the year ended December 31, 1998, Bangor Hydro-Electric reported consolidated electric operating revenues of \$195,144,007, operating income of \$35,135,768, and net income of \$11,465,317. At December 31, 1998, Bangor Hydro-Electric and its consolidated subsidiaries had total assets of \$605,687,827, of which \$251,342,103 consisted of net utility plant. In 1998, Bangor Hydro-Electric sold approximately 1.9 billion kilowatt hours ("KWH") of electricity at retail and wholesale. As of March 17, 1999, Bangor Hydro-Electric had issued and outstanding 7,363,424 shares of common stock, \$5 par value, and three series of preferred stock.

Through Penobscot Gas, Bangor Hydro-Electric holds a 50% membership interest in Bangor Gas. The remaining 50% membership interest in Bangor Gas is held by a subsidiary of Sempra Energy ("Sempra").<sup>2</sup> Bangor Gas, when it commences operation in late 1999 or early 2000, will be a "gas utility company" within the meaning of section 2(a)(4) of the Act.

The Maine Public Utilities Commission ("MPUC") has granted Bangor Gas full authority and unconditional certification to construct, own and operate a gas distribution service system in Bangor, Maine and several nearby towns. The MPUC also approved the terms of a proposed Support Services Agreement among Bangor Gas, Sempra Energy Utility Ventures ("SEUV") and Bangor Hydro-Electric, under which SEUV and Bangor Hydro-Electric will provide various administrative, engineering, operations, marketing, risk management, finance, accounting and other management services to Bangor Gas at or below market rates, as well as a financing plan for Bangor Gas.

<sup>1</sup> See *Bangor Hydro-Electric Co., Holding Co. Act* Release No. 16533 (November 24, 1969).

<sup>2</sup> Sempra has filed an application under sections 3(a)(1), 9(a)(2) and 10 of the Act requesting, among other things, authorization to acquire a 50% interest in Bangor Gas. See File No. 709511.

Bangor Gas commenced construction of the new system in the greater Bangor area during the second quarter of 1998. When completed, the system will consist of approximately 25 miles of transmission mains and at least 200 miles of distribution mains. The system will interconnect directly with the Maritimes & Northeast Pipeline, which is currently under construction with a planned in-service date of November, 1999. Bangor Gas plans to commence gas service in some locations in time for the 1999-2000 heating season. Bangor Gas estimates that, by the end of the twenty year following commencement of construction, it will serve up to 13,000 residential, commercial, and industrial customers in a 70 square-mile area in Maine having an estimated population of 75,000. Bangor Gas will be subject to regulation by the MPUC.

Following the proposed transactions Bangor Hydro-Electric, Penobscot Gas, Maine Electric and Bangor Gas will be organized in Maine. Applicants contend that they, and each of their subsidiaries, will qualify for a second 3(a)(1) exemption upon consummation of the proposed transactions because they and each of their public utility subsidiaries are, and will continue to be, intrastate in character and will continue to carry on their business in Maine, the state in which each is organized.

#### **New England Electric System, et al. (70-9417)**

New England Electric System ("NEES"), a registered holding company, and Metrowest Realty, L.L.C. ("Metrowest"), a nonutility subsidiary of NEES, both located at 25 Research Drive, Westborough, Massachusetts 01582-0001, have filed a post-effective amendment under sections 9(a), 10 and 12(f) of the Act and rule 54 under the Act to an application previously filed under the Act.

By order dated January 27, 1999 (HCAR No. 26969) ("Order"), the Commission authorized NEES to form one or more new special purpose subsidiaries ("Property Companies") to acquire interests in office and warehouse space that would be leased to associated companies. The initial capitalization of the Property Companies was not to exceed an aggregate amount of \$50 million. In accordance with the Order, NEES formed and capitalized Metrowest with a \$1 million capital contribution and made available to Metrowest \$10 million of open account advances.

NEES and Metrowest now request authority for Metrowest and any other Property Company to acquire or lease any interest in real estate for use by

associate utility or nonutility companies. In addition, NEES and Metrowest request authority to lease, sell, or otherwise dispose of unused or unneeded real estate in the NEES system ("Additional Properties") to associate companies or to nonassociate companies, and to manage the Additional Properties for future sale or use. Finally, NEES requests authority to capitalize the Property Companies in an amount not exceeding \$50 million.

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

**Margaret H. McFarland,**  
Deputy Secretary.

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BILLING CODE 8010-01-M

## **SECURITIES AND EXCHANGE COMMISSION**

### **Sunshine Act Meetings**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of July 19, 1999.

Closed meetings will be held on Tuesday, July 20, 1999, at 11:00 a.m. and on Thursday, July 22, 1999 at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters will be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meetings.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meetings in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 20, 1999, at 11:00 a.m., will be:

- Institution of injunctive actions.
- Institution of administrative proceedings of an enforcement nature.
- Institution and settlement of injunctive actions.
- Institution and settlement of administrative proceedings of an enforcement nature.
- Settlement of injunctive actions.