

offer for its own securities. Also, persons other than the reporting company making a tender offer for equity securities registered under section 12 of the Exchange Act (which offer, if consummated, would cause that person to own over 5 percent of that class of the securities) must file Schedule TO. The purpose Schedule TO is to improve communications between public companies and investors before companies file registration statements involving tender offer statements. Approximately 3,038 issuers annually file Schedule TO and it takes 43.5 hours to prepare for a total of 132,153 annual burden hours. It is estimated that 50% of the 132,153 total burden hours (66,077 burden hours) is prepared by the company.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: October 25, 2001.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-27711 Filed 11-2-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 10b-18—SEC File No. 270-416, OMB Control No. 3235-0474

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (Commission) has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 10b-18 under the Securities Exchange Act of 1934 (Exchange Act) provides that the issuer or any affiliated purchaser of the issuer will not incur liability under section 9(a)(2) of the Exchange Act or Rule 10b-5 under the Exchange Act if its purchases are effected in compliance with the manner, timing, price, and volume limitations of the safe harbor. The Rule further provides that purchases falling outside of the Rule's conditions shall not give rise to a presumption of manipulation. An issuer or an affiliated purchaser seeking to avail itself of the safe harbor, however, must collect information regarding the manner, time, price, and volume of its purchases of the issuer's common stock in order to verify compliance with the Rule's conditions and application of the safe harbor.

Each year there are approximately 1,179 share repurchase programs conducted in accordance with Rule 10b-18. For each such repurchase program, an average of approximately 8 hours are spent collecting the requisite information. If approximately 1,179 issuers engage in repurchases following a market-wide trading suspension and comply with the safe harbor then, collectively, these issuers would incur an additional 1,179 burden hours. Thus, the total compliance burden per year is approximately 10,611 burden hours.

Compliance with Rule 10b-18 does not involve the collection of confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Office for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 30, 2001.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-27710 Filed 11-02-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27460]

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

October 30, 2001.

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

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by **November 26, 2001**, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After **November 26, 2001**, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

National Grid Group plc, et al. (70-9849)

National Grid Group plc ("National Grid"), a registered public-utility holding company, its nonutility direct subsidiary, New National Grid plc ("New National Grid"), both located at 15 Marylebone Road, London, NW15JD, United Kingdom, certain registered public-utility holding company subsidiaries of National Grid ("Intermediate Holding Companies")—namely, National Grid (US) Holdings Limited, National Grid (US) Investments, both located at 15 Marylebone Road, London, NW15JD,

United Kingdom, National Grid Ireland 1 Limited, National Grid Ireland 2 Limited, both located at 6 Avenue Pasteur, L 2310, Luxembourg, National Grid General Partnership, located on the 8th Floor of the Oliver Building, 2 Oliver Street, Boston Massachusetts 02109—National Grid USA, a registered public-utility holding company and direct or indirect subsidiary of the Intermediate Holding Companies, its direct and indirect subsidiaries—namely, New England Power Company (“NEPCO”), a public-utility company and public-utility holding company exempt from registration under section 3(a)(2),¹ Massachusetts Electric Company (“Massachusetts Electric”), a public-utility company, The Narragansett Electric Company (“Narragansett”), a public-utility company, Granite State Electric Company (“Granite State”), a public-utility company, Nantucket Electric Company (“Nantucket Electric”), a public-utility company, New England Electric Transmission Corporation (“NEET”), a public-utility company, New England Hydro-Transmission Corporation (“NH Hydro”), a public-utility company, New England Hydro-Transmission Electric Co., Inc. (“MA Hydro”) a public-utility company, Vermont Yankee Nuclear Power Corporation (“Vermont Yankee”), a public-utility company, Wayfinder Group, Inc., a nonutility company, Metrowest Realty LLC, a nonutility company, NEES Energy, Inc., a nonutility company, EUA Energy Investments Corp., a nonutility company, National Grid Transmission Services Corp., a nonutility company, National Grid USA Service Company Inc. (formerly known as New England Power Service Company), a service company within the meaning of rule 88 under the Act, all located at 25 Research Drive, Westborough, Massachusetts 01582, and each of their subsidiaries— together with Niagara Mohawk Holdings, Inc. (“NiMo”), a holding company exempt from regulation under section 3(a)(1) of the Act,² and its direct and indirect subsidiaries (collectively, “Applicants”), including Niagara Mohawk Power Company (“Niagara Mohawk”), a public-utility company, and Opinac North America, Inc. (“Opinac”), its direct nonutility subsidiary, all located at 300 Erie Boulevard West Syracuse, New York 13202, have filed an application-

declaration under sections 3(a)(1), 5, 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and rules 20, 26, 42, 43, 45, 53, 54 and 88 under the Act.

Generally, Applicants request authority to (1) reorganize the National Grid system, by organizing New National Grid as a holding company of National Grid (“Reorganization”); (2) Acquire NiMo, by effecting a merger of NiMo with Grid Delaware, Inc. (“Grid Delaware”), a wholly owned direct subsidiary of New National Grid plc (“Merger”); (3) issue and sell securities to finance the proposed acquisition and other corporate business; and (4) effect related transactions. Applicants also request that the Commission issue an order exempting NiMo from all requirements applicable to registered holding companies under the Act except for those contained in section 9(a)(2).³

I. Description of the Parties

A. The National Grid System

National Grid was incorporated in England and Wales on April 1, 1989. Its ordinary shares are listed on the London Stock Exchange and its American Depository Receipts (“ADRs”) are listed on the New York Stock Exchange.⁴ As of March 31, 2001, National Grid owned assets worth \$14.756 billion, including \$7.917 billion in net utility plant assets. As of March 31, 2001, 1,484,609,664 ordinary shares and one special share of National Grid stock were outstanding.⁵

National Grid conducts its principal business, namely the transmission of electricity in England and Wales, in the United Kingdom through The National Grid Company (“NGC”), its wholly owned indirect subsidiary. NGC owns and operates a transmission system consisting of approximately 4,400 miles of overhead lines and approximately 600 miles of underground cable together with substations at some 220 sites. All ownership interests in NGC and other non-United States operations of National Grid are held by National Grid Holdings Limited (“National Grid Holdings”), a foreign utility company (“FUCO”) within the meaning of section 33 of the Act.

³ NiMo would remain subject to the Act with respect to its status as a subsidiary of a registered holding company.

⁴ In addition, Applicants state that National Grid has a small number of American Depository Shares in the United States, which account for less than one percent of National Grid’s publicly issued shares, that trade as ADRs and are held principally by United States institutions.

⁵ The special share, or the golden share, is a non-voting share owned by the United Kingdom government. Applicants state that the special share is a means for the United Kingdom government to assure the continued independence of National Grid as a provider of transmission services.

New National Grid was incorporated in England and Wales on July 11, 2000. Currently, the company does not conduct any business activities. An executive director of National Grid holds ten ordinary shares of New National Grid, and NG Nominees Limited owns the other 499,990 issued ordinary shares.

The Intermediate Holding Companies are wholly owned, directly or indirectly, by National Grid. They are used to avoid the loss of United Kingdom tax relief for foreign taxes paid on profits repatriated to the United Kingdom, and to minimize taxes on the repatriation of profits by the United States to the United Kingdom. In an order dated March 15, 2000, the Commission held that the Intermediate Holding Companies do not unduly complicate National Grid’s capital structure, and treated the Intermediate Holding Companies as a single company for purposes of section 11(b)(2) of the Act.⁶

National Grid USA, an indirect wholly owned subsidiary of National Grid, holds directly all of the issued and outstanding ownership interests of the following public-utility companies: NEPCO, Massachusetts Electric, Narragansett, Granite State, Nantucket, and NEET. Additionally, National Grid USA owns directly 53.97% of the common stock of both NH Hydro and MA Hydro, each a public-utility company. Through subsidiaries, National Grid USA is also engaged in various nonutility activities.⁷

Each of the public-utility company subsidiaries of National Grid USA is a member of the New England Power Pool (“NEPOOL”), and they have transferred control over their pool transmission facilities system to ISO-NE, which was established on the platform of an existing tight power pool.⁸ ISO-NE operates the transmission systems of all of the public utility systems in New England.⁹

⁶ See *National Grid Group plc*, Holding Co. Act Release No. 27154 (“Prior Order”).

⁷ For example, through subsidiaries, National Grid USA is engaged in the construction and leasing of fiber optic telecommunications systems and the provision of consulting services to nonaffiliated utilities in the area of electric utility restructuring and customer choice.

⁸ See *Unitil Corp.*, HCAR No. 25524 (April 24, 1992).

⁹ ISO-NE directs and controls the operation of certain facilities, in particular pool transmission facilities (“PTF”) that are owned by ISO-NE participants and rated 69 kV or above which are required to allow energy from significant power sources to move freely on the New England transmission network. ISO-NE also directs and controls the operation of certain generating facilities that are subject to central dispatch. ISO-NE is the central dispatching agency and has responsibility

Continued

¹ See *Yankee Atomic Electric Co.*, HCAR No. 13048 (November 25, 1955) (granting the section 3(a) proposal).

² See *Niagara Mohawk Holdings*, HCAR No. 26986 (March 4, 1999).

NEPCO operates electricity transmission facilities owned by associate public-utility companies in concert with the Independent System Operator New England ("OSE-NE").¹⁰ NEPCO also operates the non-pool transmission facilities (transmission facilities rated below 69 kV). It also holds National Grid USA's remaining ownership interests in generating units.¹¹ As of March 31, 2001, NEPCO owned assets worth \$2.9 billion and, for the twelve months preceding that date, earned \$656.3 million in operating revenues and \$58.3 million in net income. NEPCO is subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC") for ratemaking purposes and the Nuclear Regulatory Commission ("NRC") because it owns certain nuclear facilities. The Rhode Island Division of Public Utilities and Carriers ("RIDIV"), Massachusetts Department of Telecommunications and Energy ("MDTE"), New Hampshire Public Utilities Commission ("NHPUC"), and Vermont Public Service Board have jurisdiction over the company's financing transactions and transactions with affiliates. The Maine Public Utilities Commission also has jurisdiction over NEPCO's financing transactions, but Applicants state that the agency defers to the MDTE regarding these matters. NEPCO is also a public-utility holding company exempt from registration under section 3(a)(2),¹² as it owns approximately twenty percent of the outstanding voting securities of Vermont Yankee.¹³ Vermont Yankee is the licensed operator of the Vermont Yankee nuclear facility, which has a gross maximum dependable capacity of approximately 535 MW. For the year that ended March 31, 2001, Vermont Yankee earned \$178,565,569 in operating revenues and \$6,388,956 in net income, and owned assets worth \$710,851,866.

for the NEPOOL control area and the administration of the NEPOOL Open Access Transmission Tariff.

¹⁰ Although ISO-NE directs the central dispatch of the transmission facilities, NEPCO is responsible for determining whether and the extent to which safety requires facilities to be operated at less than their rated capability.

¹¹ Applicants state that the company is actively seeking to divest these facilities.

¹² See *Yankee Atomic Electric Co.*, HCAR No. 13048 (November 25, 1955) (granting the section 3(a) proposal).

¹³ NEPCO also holds thirty, twenty, and fifteen percent ownership interest in Yankee Atomic Electric Company, Maine Yankee Atomic Power Company, and Connecticut Yankee Atomic Power Company, respectively. Previously, each of these companies was a public-utility company, but Applicants state that they have all permanently eased operations.

Massachusetts Electric is engaged in the delivery of electricity to approximately 1.2 million customers in 170 cities and towns in Massachusetts. The cities and towns served by the company include the highly diversified commercial and industrial cities of Worcester, Lowell, and Quincy, the Interstate 495 high technology belt, suburban communities, and many rural, towns. Massachusetts Electric owns approximately 16,021 pole miles of electric transmission and distribution lines. As of March 31, 2001, Massachusetts Electric owned assets worth \$3.0 billion and, during the twelve months preceding that date, earned \$1.9 billion in operating revenues and \$24 million in net income. The company is subject to rate regulation by the FERC and the MDTE. The MDTE also has jurisdiction over the company's financing transactions and transactions with affiliates.

Narragansett delivers electricity to approximately 460,000 customers in thirty-eight cities and towns in Rhode Island. Its service area covers approximately ninety-nine percent of Rhode Island, and includes suburban, rural and urban areas such as the cities of Providence, East Providence, Cranston, and Warwick. The company owns approximately 4,737 pole miles of electric transmission and distribution lines. As of March 31, 2001, Narragansett owned assets worth \$1.5 billion and, during the twelve months preceding that date, earned \$757.6 million in operating revenues and \$16.9 million in net income. Narragansett is subject to rate regulation by the FERC and the Rhode Island Public Utilities Commission, and the RIDIV has jurisdiction over the company's financing transactions and transactions with affiliates.

Granite State provides retail electric service to approximately 36,000 customers in twenty-one communities in New Hampshire. Its service area includes the Salem area of southern New Hampshire, as well as several communities located along the Connecticut River, primarily in the Lebanon and Walpole areas. The company owns approximately 1,049 pole miles of electric transmission and distribution lines. As of March 31, 2001, Granite State owned assets worth \$90.2 million and, during the twelve months preceding that date, earned \$73.7 million in operating revenues and \$1.8 million in net revenues. Granite State is subject to regulation by the FERC and the NHPUC. The NHPUC also has jurisdiction over the company's financing transactions and transactions with affiliates.

Nantucket provides retail electric service to approximately 10,000 customers on Nantucket Island, in Massachusetts. It owns approximately 110 pole miles of electric transmission and distribution lines. As of March 31, 2001, Nantucket owned assets worth \$58 million and, during the twelve months preceding that date, earned \$17.9 million in operating revenues and \$100,000 in net income. Nantucket is subject to regulation by the FERC and the MDTE. The MDTE also has jurisdiction over the company's financing transactions and transactions with affiliates.

NEET owns and operates a direct current/alternating current converter terminal facility for the first phase of the Hydro-Quebec and New England interconnection ("Interconnection") and six miles of high voltage direct current transmission line in New Hampshire. As of March 31, 2001, NEET owned assets worth \$24 million and, during the twelve months preceding that date, earned \$8.3 million in operating revenues and \$700,000 in net income. NEET is subject to rate regulation by the FERC, and the NHPUC has jurisdiction over the company's financing transactions and transactions with affiliates.

NH Hydro operates 121 miles of high-voltage direct current transmission line in New Hampshire for the second phase of the Interconnection that extends to the Massachusetts border. As of March 31, 2001, NH Hydro owned assets worth \$113.8 million and, during the twelve months preceding that date, earned \$28.2 million in operating revenues and \$4.2 million in net income. NH Hydro is subject to rate regulation by the FERC, and the NHPUC has jurisdiction over the company's financing transactions and transactions with affiliates.

MA Hydro operates a direct current/alternating current terminal and related facilities for the second phase of the Interconnection and twelve miles of high-voltage direct current transmission line in Massachusetts. As of March 31, 2001, the company owned assets worth \$139.8 million and, during the twelve months preceding that date, earned \$34.4 million in operating revenues and \$7.0 million in net income. MA Hydro is subject to rate regulation by the FERC, and the MDTE has jurisdiction over the company's financing transactions and transactions with affiliates.

B. The NiMo System

Through subsidiaries, NiMo is engaged in the sale, distribution and transportation of natural gas, the generation, transmission and distribution of electricity, and certain

nonutility businesses. Its common stock is listed on the New York Stock Exchange and, as of March 31, 2001, there were 160,239,918 of its shares outstanding. As of March 31, 2001, on a consolidated basis, NiMo owned assets worth \$12.381 billion, including \$5.717 billion in net utility plant assets, earned \$4.712 billion in operating revenues, and reported a net loss of \$20 million.¹⁴ The NiMo system employees approximately 7,546 full-time employees. NiMo has two direct, wholly owned subsidiaries: Niagara Mohawk and Opinac, a "holding company" within the meaning of section 2(a)(7) of the Act.

Niagara Mohawk is a combination electric and gas public-utility company. Through subsidiaries, Niagara Mohawk is also engaged in various nonutility businesses.¹⁵ As of March 31, 2001, Niagara Mohawk owned assets worth \$12,0698 billion, including \$5.717 billion in net utility assets and, during the twelve months preceding that date, earned \$4.004 billion in operating revenues and incurred a net loss of \$39.2 million. During the twelve months prior to April 30, 2001, Niagara Mohawk provided electric service and sold, distributed and transported natural gas to approximately 1,535,135 electric and 546,835 natural gas customers in eastern, central, northern and western New York State.¹⁶ Niagara Mohawk's electric system interconnects with the National Grid USA's system, and consists of 9,327 pole miles of transmission lines and 41,125 pole miles of distribution networks. Niagara Mohawk owns hydroelectric generation

assets located in Mechanicsville, New York, that, although inoperable, has a nominal capacity of 4.5 MW. It also holds land rights under hydroelectric facilities that have a collective generation capacity of 58.5 MW.¹⁷ Currently, Niagara Mohawk holds a 100% ownership interest in the 613 MW Nine Mile Point Nuclear Station Unit No. 1 and a forty-one percent ownership interest in the 1,143 MW Nine Mile Point Nuclear Station Unit No. 2, and operates both of these facilities. Niagara Mohawk has entered into an agreement, however, to sell its ownership interests in these nuclear plants to Constellation Nuclear LLC. Niagara Mohawk has transferred control of its transmission system to the New York Independent System Operator ("NYISO").¹⁸ All of Niagara Mohawk's customers may choose their electricity supplier, but Niagara Mohawk distributes electricity through its transmission and distribution systems for all customers, regardless of their supplier. It also provides electricity to those customers who do not choose a new electricity supplier. Niagara Mohawk also purchases, transports and distributes natural gas in eastern, central and northern New York State in an area that generally extends from Syracuse to Albany. Gas utility service is provided largely in areas where Niagara Mohawk also provides electrical service, and the majority of the company's gas sales are for residential and commercial space and water heating. Niagara Mohawk purchases its natural gas for sale to its customers under firm and spot contracts, and transports the gas under both firm and interruptible transportation contracts. The New York State Public Service Commission ("NYPSC") regulates the following aspects of Niagara Mohawk's operations: financing with a term of one year or more, the company's capital structure, dividend payments, asset sales, affiliate transactions, and the terms and quality of services provided.

Through its subsidiaries, Opinac is currently engaged in various utility and nonutility businesses.¹⁹ Opinac Energy

Corporation ("Opinac Energy"), a wholly owned, direct subsidiary of Opinac, is a public-utility holding company exempt from registration under section 3(a)(5) of the Act.²⁰ It holds a fifty percent ownership interest in Canadian Niagara Power Company Limited ("CNP Limited"), a public-utility company based in Ontario, Canada.²¹ CNP Limited will obtain certification as a FUCO prior to consummation of the Merger.

CNP Limited generates electricity, and supplies and markets energy and energy services in Ontario. It also sells electricity that is surplus to its Ontario needs into the New York wholesale market.²² It owns and operates the William B. Rankine Generating Station, a 74.6 MW hydroelectric plant located on the Canadian side of the Niagara River at Niagara Falls. As of March 31, 2001, CNP Limited owned, on a consolidated basis, assets worth \$20.3 million and, during the preceding twelve months, earned \$13 million in operating revenues and \$4.5 million in net income. CNP Limited is subject to the jurisdiction of the Ontario Energy Board ("OEB"). Additionally, CNP Limited owns all of the issued and outstanding ownership interests in Canadian Niagara Power Inc. ("CNP Inc."), a public-utility company.

CNP Inc. primarily distributes electricity to residential, commercial and industrial customers in Fort Erie, Ontario. Through an international interconnection between its facilities and those of Niagara Mohawk, CNP Inc. provides back-up power in the event of an outage at Niagara Falls.²³ CNP Inc.

five percent ownership interest in Telergy Central LLC, a company engaged in the development, deployment and operation of a fiber optic network and in telecommunications generally; a twenty-six percent ownership interest in Direct Global Power, a company engaged in the development of photovoltaic and other renewable energy products; and a 17.9% ownership interest in Northern Power System, Inc., a company engaged in providing remote power and renewable energy systems solutions.

Opinac also holds an eighteen percent and a sixteen percent ownership interest in Telergy, Inc. ("Telergy") and EVonyx, Inc. ("EVonyx"), respectively. Telergy is engaged in the development, deployment and operation of a fiber optic network and telecommunications generally; EVonyx is engaged in the research and development of fuel cell and battery technology.

²⁰ See *Opinac Energy Corp.*, HCAR No. 25632 (September 16, 1992).

²¹ Fortis Inc. ("Fortis") holds the remaining fifty percent ownership interest in CNP Limited. Applicants state that Fortis is an unaffiliated holding company that is exempt from all requirements of the Act by rule 5 under the Act.

²² During the twelve months preceding March 31, 2001, CNP Limited sold 355,886 MWh to various parties in the northeastern United States.

²³ CNP Inc. owns 32 km of transmission lines and 900 km of distribution lines, including one 25 hertz

¹⁴ Niagara Mohawk comprises ninety-eight percent of NiMo's total assets and generates ninety-four percent of NiMo's total revenues.

¹⁵ Niagara Mohawk's wholly owned direct nonutility subsidiaries are NM Uranium, Inc. ("NM Uranium"), NM Properties, Inc. ("NM Properties"), NM Receivables LLC ("NM receivables") and NM Receivables Corp. II ("NM Receivables II"). NM Uranium holds a fifty percent ownership interest in certain closed uranium mines in the State of Texas. NM Properties engages in the divestiture, or in conjunction with others, the development of real property formerly owned by Niagara Mohawk. NM Receivables is a single-purpose, financing subsidiary that purchases and resells Niagara Mohawk's customer receivables, including accrued unbilled revenues. NM Receivables, LLC is over 99.99% owned by Niagara Mohawk and is also owned by NM Receivables Corp. II, a wholly owned subsidiary of Niagara Mohawk that manages NM Receivables, LLC.

NM Properties wholly owns the following real estate development subsidiaries: NM Properties, Inc. wholly owns the following subsidiary real estate development companies: Hudson Pointe, Inc., Land Management & Development, Inc., Landwest, Inc., Moreau Park, Inc., Riverview, Inc., Salmon Shores, Inc., Upper Hudson Development, Inc., Arbuckle Acres, Inc., and OproprCo., Inc.

¹⁶ It provides electric service in the cities of Buffalo, Syracuse, Albany, Utica, Schenectady, Niagara Falls and Troy.

¹⁷ The nonaffiliate leasees sell the generated power to Niagara Mohawk under power purchase agreements.

¹⁸ The NYISO is an independent operator of the electric transmission systems of all of the public utility systems in New York State.

¹⁹ Niagara Mohawk Energy, Inc. ("NM Energy"), a wholly owned direct subsidiary of Opinac, is an energy marketing and services company. Through its wholly owned direct subsidiary, Niagara Mohawk Energy Marketing, Inc., NM Energy purchases electricity and gas for resale both within and outside New York, through short-term forward contracts or spot market purchases. NM Energy also holds the following ownership interests: a twenty-

serves approximately 14,600 customers, employs forty-four people, and is subject to the jurisdiction of the OEB. As of March 31, 2001, the company owned \$15.8 million in assets and, during the twelve months preceding that date, earned \$6.8 million in operating income but no net income. Additionally, on July 19, 2001, CNP Limited announced that it had signed an agreement that provides for CNP Inc. to lease the electricity distribution business of Port Colborne Hydro, Inc. ("Port Colborne Hydro"), which serves approximately 9,000 customers within the City of Port Colborne. This acquisition is subject to the approval of OEB. CNP Inc. also recently acquired a ten percent interest in Westario Power Holdings Inc. ("Westario Power") and Rideau St. Lawrence Holdings Inc. ("Rideau St. Lawrence"), both nonutility holding companies.²⁴

II. Merger Agreement and Restructuring

National Grid, NiMo, New National Grid, and Grid Delaware entered into an Agreement and Plan of Merger and Scheme of Arrangement dated September 4, 2000 and amended December 1, 2000 ("Merger Agreement"), which contemplates the Restructuring and provides for and governs the Merger. The Merger and Restructuring would be effected through a series of transactions involving special purpose acquisition corporations, temporary intercompany loans (including transitory upstream loans that would not survive the Merger),²⁵ the acquisition of securities, share repurchase or redemptions and other transactions. The Restructuring and Merger are intended to collectively qualify as a tax-free transaction within

transmission line and one 60 hertz transmission line that interconnect the grids in southern Ontario with those in northwestern New York. These utility assets were formerly owned by CNP Limited; on March 31, 1999, CNP Limited transferred its transmission and distribution assets to CNP Inc. to comply with Electricity Act of 1998 and regulation of the OEB.

²⁴ Through subsidiaries, Westario Power distributes electricity to 20,000 customers in the counties of Bruce, Grey and Huron, Ontario, and Rideau St. Lawrence distributes electricity to 6,000 customers in the counties of Leeds-Grenville and Stormont-Dundas, Ontario.

²⁵ Applicants state that upstream loans used to fund the Merger would be unsecured and limited to loans by wholly owned direct or indirect subsidiaries of National Grid and New National Grid, and would not be funded by any affiliated public-utility company subsidiaries. These loans would be used as a mechanism to convey the Merger consideration and the acquired ownership interest in NiMo to the appropriate company in the New National Grid System, and that the loans would permit New National Grid to avail itself of exemptions with respect of taxes that might otherwise arise on implementation of the structure.

the meaning of section 351 of the Internal Revenue Code of 1986, as amended.

The Restructuring would be implemented immediately prior to the Merger, and involves exchanging National Grid's existing shares for shares of New National Grid. Specifically, New National Grid would issue one of its shares in exchange for each outstanding share of National Grid common stock.²⁶ After the Restructuring, National Grid would be a wholly owned subsidiary of New National Grid, and would no longer be the parent company of National Grid USA or any of the Intermediate Holding Companies. Instead, National Grid would be the direct parent company of National Grid Holdings, a FUCO. Correspondingly, National Grid would deregister as a public-utility holding company under the Act and submit a notification on Form U-57 to obtain FUCO status, and New National Grid, as the parent of the Intermediate Holding Companies and National Grid USA, would register under section 5 of the Act. The organization of New National Grid as the new top, registered holding company is designed to provide National Grid the flexibility to increase the cash portion of the Merger consideration without jeopardizing the tax free nature of the transaction for NiMo shareholders who elect to exchange their shares in NiMo for shares in National Grid, should the shareholders in aggregate elect to receive more than one-fifth of the consideration for their NiMo shares in cash.²⁷

Under the Merger Agreement, Grid Delaware would merge into NiMo, with NiMo surviving as direct subsidiary of New National Grid. The Merger Agreement provides that all of the shares of common stock of Grid Delaware issued and outstanding prior to the Merger would be converted into the right to receive common stock of NiMo. Each share of NiMo common stock would be converted into the right to receive the merger consideration in the form of cash, American Depositary Shares ("ADSs") or a combination of cash and ADSs. The per-share merger consideration would be \$19.00 if the Average Price²⁸ is between \$32.50 and

²⁶ Applicants expect that the outstanding special share of National Grid stock would be canceled and replaced with a special share of New National Grid stock.

²⁷ Applicants state that National Grid cannot be eliminated as part of the Restructuring without jeopardizing the tax-free nature of the transaction.

²⁸ The "Average Price" is defined under the Merger Agreement as the average of the closing prices of New National Grid ordinary shares, as

\$51.00.²⁹ Based on National Grid's current share price, the value of the Merger consideration is approximately \$3.1 billion.³⁰ NiMo shareholders may elect to receive their consideration in cash, ADSs or as a combination of both, as long as the aggregate cash consideration paid does not exceed \$1.015 billion.³¹ Subsequently, all equity interests in NiMo would be contributed to National Grid USA.

The Merger would be accounted for under the purchase method of accounting, in accordance with generally accepted accounting principles.³² Applicants state that the common stock shareholders of NiMo and National Grid approved the Merger on January 19 and 29, 2001, respectively. The Merger is contingent on the completion of the sale of Niagara Mohawk's ownership interests in certain nuclear assets discussed above or entry into another arrangement covering those assets.

After the Merger, all of the common stock of NiMo would be owned by National Grid USA. The corporate structure of the current NiMo system would not otherwise change. Applicants state that, after the Merger, Niagara

derived from the Daily Official List of the London Stock Exchange (converted to a United States dollar value using the exchange rate for each date for which the closing price is to be determined as reported in The Financial Times) for twenty trading days selected at random (using mutually agreed upon procedures) in the period of forty consecutive London Stock Exchange trading days ending on the close of business on the tenth London Stock Exchange trading day prior to the election deadline, multiplied by five.

²⁹ In the event that the Average Price is greater than \$51.00, the per-share consideration received by NiMo shareholders would increase by two-thirds of the percentage of the increase in value over \$51.00. In the event that the Average Price is less than \$32.40, the per-share consideration received by NiMo shareholders would decrease by two-thirds of the percentage of the decrease in value below \$32.50.

³⁰ Applicants request authority to obtain more than \$3.1 billion in Merger-related financing because, as discussed above, the Merger consideration may increase if the Average Price of National Grid common stock rises above \$51 per share.

³¹ If cash elections received from NiMo shareholders exceed \$1.015 billion, National Grid has the option, but not the obligation, to increase the cash component of the consideration. If elections for one form of consideration exceed the amount of such form of consideration to be issued in the Merger, all shareholders electing the oversubscribed form of consideration would receive, on a pro rata basis, some of the undersubscribed form of consideration.

³² Under the purchase method of accounting, the purchase price of NiMo, including direct costs of the acquisition, would be allocated to the assets acquired and liabilities assumed based upon their estimated fair values, with the excess, i.e., the difference between the purchase price, representing fair value, and the fair value of the identified assets acquired, recorded as goodwill.

Mohawk would be re-branded "Niagara Mohawk, a National Grid Company."

Applicants state that the combination of NiMo and National Grid would create the ninth largest electric utility in the U.S., with an electric customer base of approximately 3.3 million. They expect that, over the ten year period from 2002 through 2011, Merger-related cost synergies and the sharing of best practices across operations would result in savings of \$895 million before costs to achieve, or approximately \$90 million per year.

III. Financing Transactions

Applicants also request authority to issue and/or sell certain securities to finance the New National Grid system through September 30, 2004 ("Authorization Period"). They request that the system financing parameters imposed under the Prior Order be replaced by the following ones (collectively, "Financing Parameters"):

- All long-term debt or preferred stock issued by New National Grid, National Grid USA, or any of the current public-utility company subsidiaries of National Grid USA and Niagara Mohawk (collectively, "Utility Subsidiaries") in public offerings would be rated at the investment grade level by a nationally recognized statistical rating organization.

- New National Grid would maintain common stock equity as a percentage of total capitalization, measured on a book value basis under generally accepted accounting principles in the United States ("U.S. GAAP"), of at least 28.5% or above at the time of the closing of the Merger and thereafter during the Authorization Period, and thirty percent or above by March 31, 2002.

- National Grid USA, on a consolidated basis, and each of the Utility Subsidiaries (except NEET and Vermont Yankee) on a stand-alone basis, would maintain common stock equity of at least thirty percent of total capitalization.

- The cost of money on New National Grid's debt or preferred stock financings would not exceed the cost of comparable term U.S. treasury securities or government benchmark for the currency concerned plus the margin demanded in the financial markets in a competitive offering by an issuer of such securities with New National Grid's credit rating.

- For debt securities proposed to be issued by the Utility Subsidiaries, the cost of money on debt securities issued to nonassociated would not exceed the cost of comparable term U.S. treasury securities or government benchmark for the currency concerned plus the margin

demand in the financial markets in a competitive offering by an issuer of such securities with the respective Utility Subsidiary's credit rating.

- The cost of money on proposed National Grid USA debt securities or preferred stock would not exceed the cost of comparable term U.S. treasury securities or government benchmark for the currency concerned plus the margin demanded in the financial markets in a competitive offering by an issuer of such securities with National Grid USA's credit rating.

- The underwriting fees, commissions or other similar remuneration paid in connection with the non-competitive issue, sale or distribution of a security would not exceed five percent of the principal or total amount of the security being issued.

A. New National Grid

As described above, in connection with the Merger, NiMo shareholders would receive New National Grid ordinary shares and cash ("Merger Consideration"). To raise the Merger Consideration, Applicants request authority for New National Grid to issue its ordinary shares to NiMo shareholders and, issue and sell debt securities to banks under one or more credit facilities and forward underwriting commitments that would be established prior to completion of the Merger. The aggregate amount of these debt securities, when combined with the value of the ordinary shares issued in connection with the Merger, will not exceed \$4 billion at any one time outstanding.³³

Applicants request authority for New National Grid to issue to nonaffiliates up to an aggregate amount of \$6 billion ("Aggregate Limit") of equity and debt securities at any one time outstanding during the Authorization Period.³⁴ These securities could include ordinary shares, preferred shares, options, warrants, long- and short-term debt (including commercial paper), convertible securities, subordinated debt, bank borrowings and securities with call or put options. Applicants

³³ As discussed above, the value of the Merger Consideration is approximately \$3.1 billion based upon National Grid's current share price. That amount may increase, however, if the Average Price of New National Grid shares increases above fifty-one dollars per share.

³⁴ The Aggregate Limit would apply only to securities issued and outstanding during the Authorization Period. Accordingly, when a security is issued during the Authorization Period and later redeemed or retired during the Authorization Period, the aggregate amount issued and outstanding under the Aggregate Limit would be reduced and additional financing capacity under the Aggregate Limit would be made available.

would issue up to \$4.5 billion in equity securities (including options and warrants) and \$5 billion in debt securities, subject to the Aggregate Limit. The Aggregate Limit would replace the \$4 billion limit authorized in the Prior Order, and does not include the Merger Consideration.³⁵

New National Grid proposes to enter into, perform, purchase and sell financial instruments intended to manage the volatility of currencies and interest rates, including currency and interest rate swaps, caps, floors, collars and forward agreements, and other similar agreements ("Hedging Instruments"). Hedging Instruments may be executed on-exchange ("On-Exchange Trades") with brokers, through the opening of futures and/or options positions, or by opening over-the-counter positions with one or more counterparties ("Off-Exchange Trades"), or a combination of On-Exchange Trades and Off-Exchange Trades. Off-Exchange Trades would be entered into only with associate companies or counterparties whose senior debt ratings are investment grade, as determined by Standard & Poor's, Moody's Investors Service, Inc. or Fitch IBCA, Inc. ("Approved Counterparties").³⁶

Hedging Instruments will qualify for hedge accounting treatment under U.S. GAAP or the United Kingdom ("U.K. GAAP"). If a transaction qualifies for hedge accounting treatment only under U.K. GAAP, New National Grid will reconcile on its financial statements the difference between U.S. GAAP, in accordance with Form 20-F. No gain or loss on a Hedging Instrument entered into by New National Grid will be allocated to National Grid USA or its subsidiaries. Applicants request authority for New National Grid to enter into Hedging Instruments to fix and/or limit the interest rate or currency exchange risk associated with anticipated debt offerings ("Anticipatory Hedges"). For the purpose of Anticipatory Hedges, Hedging Instruments may include the following: forward sales of exchange-traded Government Securities³⁷ futures contracts, Government Securities and/or a forward swap (each, "Forward Sales"), purchases of put options on Government Securities ("Put Options Purchases"), Put Options Purchases in

³⁵ In addition, common shares to be issued in connection with presently outstanding convertible bonds would not count against the Aggregate Limit. See below, at footnote 40.

³⁶ See below, at footnote 41.

³⁷ "Government Securities" would include U.S. Treasury obligations, U.K. Gilts or the appropriate government benchmark security for the currency involved in the hedge.

combination with sales of call options on Government Securities ("Zero Cost Collars"), transactions involving purchases or sales (including short sales) of Government Securities, or combinations of Forward Sales, Put Options Purchases, Zero Cost Collars, and/or other derivative or cash transactions. Neither Hedging Instruments nor Anticipatory Hedges entered into by New National Grid would be subject to the Aggregate Limit.

Applicants request authority for New National Grid to enter into guaranties, obtain letters of credit, enter into guaranty-type expense agreements or otherwise provide credit support with respect to the obligations of the Subsidiaries, to enable those companies to carry on their respective businesses. These guaranties would not be counted against the Aggregate Limit but would instead be subject to a \$2 billion limit, based upon the amount at risk.³⁸ The fee, if any, charged for any guaranty would not exceed the cost of obtaining the liquidity necessary to perform the guaranty for the period of time the guaranty remains outstanding.

B. Subsidiary Financing

Applicants request authority for the Intermediate Holding Companies and National Grid USA to issue and sell securities to (1) their direct and indirect parent companies; and (2) National Grid and its associate company subsidiaries³⁹ (collectively, "FUNCO Subsidiaries"), except that the FUCO Subsidiaries would not purchase equity and convertible debt securities from any of the Intermediate Holding Companies or National Grid USA. Financing between an Intermediate Holding Company and its direct or indirect parent or a FUCO Subsidiary would be on market terms. All interest rates and maturity dates of debt securities issued by National Grid USA to an associate company would be designed to parallel the lower of the effective cost of capital of National Grid USA or New National Grid. All borrowings by the Intermediate Holding Companies and National Grid USA would be unsecured. These securities would be used to finance the operations of the National Grid USA and its subsidiaries.

Applicants request authority for the Intermediate Holding Companies and National Grid USA to acquire securities

³⁸ Guaranties previously issued by National Grid that New National Grid assumes would not count against this limit.

³⁹ As discussed above, after the Restructuring, National Grid would become a FUCO and a holding company over National Grid Holdings, the current FUCO holding company in the National Grid System.

from their direct or indirect subsidiary companies. Neither the Intermediate Holding Companies nor National Grid USA, however, would borrow or receive any extension of credit or indemnity from any of their respective direct or indirect subsidiaries. Debt offerings by the Intermediate Holding Companies and National Grid USA would have short, medium and long-term maturities.⁴⁰

Applicants request authority for the Utility Subsidiaries to enter into Hedging Instruments with nonaffiliated Approved Counterparties, to the extent the issuance and sale of these securities is not exempt under rule 52(a) under the Act.⁴¹ These securities would be entered into on the same terms generally applicable to New National Grid.⁴²

Applicants request authority for Niagara Mohawk to issue to associate and nonassociate companies debt securities with maturities of less than one year, in an aggregate amount not to exceed \$1 billion at any one time outstanding.

Applicants request authorization for NiMo to issue and sell securities, other than equity and convertible securities, to associate companies, but not to NiMo's direct or indirect subsidiaries other than special purpose financing subsidiaries. Proceeds from the sales of these securities would be used to finance NiMo's existing business and its respective subsidiaries and future authorized or permitted businesses. All borrowings by NiMo would be unsecured. To the extent that NiMo invests any funds in CNP Limited (its FUCO subsidiary) or its subsidiaries, those amounts would be counted against the overall EWG and FUCO

⁴⁰ Short-term debt would be less than one year in maturity, medium-term debt would have maturities up to five years, and long-term debt would have maturities up to fifty years.

⁴¹ By order dated October 22, 2001, the Commission authorized through May 31, 2003; (1) the Intermediate Holding Companies to enter into currency derivatives with National Grid and its subsidiaries that are outside of the National Grid USA ownership chain, including the FUCO Subsidiaries; (2) National Grid to increase the aggregate amount of convertible bonds that it may issue to \$2 billion; and (3) the Intermediate Holding Companies to enter into currency derivatives with National Grid and the FUCO Subsidiaries. See *National Grid Group plc*, HCAR No. 27455 ("October 2001 Order"). Applicants request that the authority granted in the October 2001 Order be modified to reflect the Reorganization.

⁴² Hedging Instruments entered into by the Utility Subsidiaries would differ from those entered into by New National Grid in that the former would qualify for hedge accounting treatment under U.S. GAAP and, to the extent a Utility Subsidiary incurs a gain or loss on a Hedging Instrument that it has entered into to hedge a currency or interest rate risk associated with a security that such Utility Subsidiary has issued, the gain or loss would be attributed to the Utility Subsidiary.

investment limits applicable to New National Grid.

Applicants request authority for National Grid USA to issue up to an aggregate amount of \$500 million at any one time outstanding of debt securities to third parties through public or private offerings. As mentioned above, all borrowings by National Grid USA would be unsecured and would have the short, medium and long-term maturities described above.

Applicants request authority for the Intermediate Holding Companies, National Grid USA, and NiMo to issue guaranties and other forms of credit support on behalf of their direct and indirect subsidiaries. These guaranties would be subject to a limit of \$1 billion.⁴³ Applicants also request authority for the Nonutility Subsidiaries to enter into guaranties with each other for up to an aggregate amount of \$1 billion, to the extent such transactions are not exempt under rule 45. The fee, if any, charged for any guaranty would not exceed the cost of obtaining the liquidity necessary to perform the guaranty for the period of time the guaranty remains outstanding.

Applicants request authority for Massachusetts Electric, Nantucket, Narragansett, NEPCO, and MA Hydro to continue issuing up to aggregate amounts of \$275 million, \$6 million, \$145 million, \$750 million, \$25 million, respectively, in short term debt securities through the Authorization Period.⁴⁴

C. Money Pool Expansion

Applicants request authority for the Money Pool to be operated as authorized under the Prior Order. Applicants also request authority for NiMo and its current subsidiaries, except for those companies that are exempt telecommunication carriers ("ETCs"), exempt wholesale generators ("EWGs"), and FUCOs, to participate in

⁴³ Applicants state that certain guaranties may be in support of obligations that are not capable of exact quantification. To value these obligations for purposes of the limit, New National Grid would determine the exposure under a guarantee by an appropriate means, including estimating its subsidiary's exposure based on loss experience or projected potential payment amounts.

⁴⁴ The Commission previously granted these companies the requested authorizations. See *National Grid USA*, UCAR No. 27381 (April 19, 2001) (authorizing Massachusetts Electric, Nantucket, and Narragansett to issue up to \$275 million, \$6 million, and \$145 million, respectively, in short-term debt securities through May 31, 2003); *New England Electric System*, HCAR No. 26881 (June 2, 1998) (authorizing NEPCO to issue up to \$750 million in short-term debt securities through October 31, 2001); *New England Electric System*, HCAR No. 26768 (October 29, 1997) (authorizing MA Hydro to issue up to \$25 million in short-term debt securities through October 31, 2001).

the Money Pool under the same terms and conditions established in the Prior Order. Further, Applicants request authority for all newly formed or acquired or currently non-participating National Grid subsidiary companies (including EWGs and FUCOs, but excluding ETCs) to participate in the Money Pool as lenders only.

IV. Other Requests

As mentioned above, the purchase method of accounting would apply to the Merger. Consequently, the current retained earnings of NiMo and its subsidiaries, the traditional source of dividend payment, would be eliminated and the value of the goodwill would be reflected in their balance sheets as additional paid-in-capital. Applicants request authority for Niagara Mohawk to pay dividends or to acquire, retire or redeem its securities using its capital or unearned surplus as follows: Niagara Mohawk would in any calendar year, limit dividends paid on its common stock to "income available for common dividends"⁴⁵ plus a fixed amount per calendar year.⁴⁶ To the extent that Niagara Mohawk does not pay the maximum dividends allowable, the company would carry the balance forward to subsequent years. Applicants also request authority for NiMo and its nonutility subsidiaries to pay dividends or to acquire, retire or redeem their securities without restriction, to the extent permitted under applicable state and corporate law or applicable financing covenants. Accordingly, Applicants request that the Commission eliminate the restriction established by the Prior Order limiting the payment of dividends by the Utility Subsidiaries to eighty percent of their post-New England Electric System merger earnings before the amortization of goodwill, based on a rolling five-year average.

Applicants request authority to amend the National Grid USA tax allocation agreement, previously approved by the Commission,⁴⁷ to add NiMo and its subsidiaries as members, allowing National Grid General Partnership ("NGGP") to retain the value of the tax deduction associated

with the debt incurred by New National Grid to finance the Merger.

Applicants request authority for NiMo and its wholly owned subsidiaries to increase the amount or change the terms of the authorized capital securities without further Commission approval.⁴⁸ The terms that may be changed include dividend rates, conversion rates and dates, and expiration dates. The changes to capital stock would affect only the manner in which financing is conducted by those companies; the terms of limits proposed by this application or prior Commission orders would not be altered.

Applicants request authorization for NiMo and its subsidiaries to acquire financing entities to facilitate financings by issuing to third parties income preferred securities or other authorized or exempt securities.⁴⁹ Amounts issued by these financing entities to third parties under the Commission's authorization would count against any applicable limits for the immediate parent of that financing entity, but the underlying intrasystem mirror debt and parent guarantee would not count against any financing or guarantee limits.

By the Prior Order, the Commission authorized National Grid to invest up to \$4.406 billion in EWGs and FUCOs through May 31, 2003. Applicants request authority for New National Grid to increase its investments in EWGs and FUCOs through the Authorization Period to no more than \$5.406 billion of its retained earnings.

Applicants request authority for NiMo and its subsidiaries to enter into service agreements with National Grid USA Service Company ("Service Company"), the current service company for the National Grid USA and its subsidiaries (collectively, "National Grid USA Group"), and receive the same services that current members of the National Grid Group receive from Service Company. This affiliate service relationship would follow in all material respects the authority granted in the Prior Order. Applicants state that Service Company would continue to be operated in accordance with the policies and procedures manual previously filed, and the service agreements entered into between Service Company and NiMo

and its subsidiaries would be in the same form as those entered into by the current National Grid USA Group.

Applicants request authority for New National Grid to acquire, directly or indirectly, the equity securities of one or more intermediate subsidiaries ("Intermediate Subsidiaries") organized exclusively for the purpose of acquiring, financing, and holding the securities of one or more existing or future Nonutility Subsidiaries. Intermediate Subsidiaries may also provide management, administrative, project development, and operating services to such entities.⁵⁰ To the extent their provision of those services is not authorized or permitted by rule, regulation, or order of the Commission, applicants request authority for the Intermediate Subsidiaries to contract to provide them.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-27712 Filed 11-2-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-25247; File No. 812-12584]

Golden American Life Insurance Company, et al.

October 30, 2001.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an Order Pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") granting exemptions from sections 2(a)(32) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder.

⁵⁰ "Development Activities" would be limited to due diligence and design review; market studies; preliminary engineering; site inspection; preparation of bid proposals, including, in connection therewith, posting of bid bonds; application for required permits and/or regulatory approvals; acquisition of site options and options on other necessary rights; negotiation and execution of contractual commitments with owners of existing facilities, equipment vendors, construction firms, power purchasers, thermal "hosts," fuel suppliers and other project contractors; negotiation of financing commitments with lenders and other third-party investors; and such other preliminary activities as may be required in connection with the purchase, acquisition, financing or construction of facilities or the acquisition of securities of or interests in new businesses. "Administrative Activities" would include ongoing personnel, accounting, engineering, legal, financial, and other support activities necessary to manage New National Grid's investments in Nonutility Subsidiaries.

⁴⁵ To calculate "income available for dividends," Applicants would add back amounts attributable to the write down of goodwill so that income available for dividends would reflect Niagara Mohawk's income before the deduction for goodwill impairment.

⁴⁶ Applicants propose the following fixed amounts: \$100 million during 2001; \$100 million during 2002; \$80 million during 2003; and \$60 million during 2004.

⁴⁷ See Prior Order.

⁴⁸ By the Prior Order, the Commission authorized National Grid USA, its subsidiaries and the Intermediate Holding Companies, to increase the amount or change the terms of their authorized capital securities without additional Commission approval.

⁴⁹ By the Prior Order, the Commission authorized National Grid, the Intermediate Holding Companies, National Grid USA, and its subsidiaries to organize these types of financing entities.