

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 1 p.m., Monday, November 4, 2002; 8:30 a.m., Tuesday, November 5, 2002.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: November 4—1 p.m. (Closed); November 5—8:30 a.m. (Open).

MATTERS TO BE CONSIDERED:

Monday, November 4—1 p.m. (Closed)

1. Financial Performance.
2. Strategic Planning.
3. Personnel Matters and Compensation Issues.

Tuesday, November 5—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, October 7–8, 2002.
2. Remarks of the Postmaster General and CEO.
3. Quarterly Report on Service Performance.
4. Capital Investments.
 - a. Flats Sequencing System and Delivery Point Packager.
 - b. Surface-Air Support System Modification Request and Enterprise Data Warehouse—Network Operations Management.
 - c. Point of Service (POS) One—Stage 3.
5. Tentative Agenda for the December 9–10, 2002, meeting in Washington, DC.

CONTACT PERSON FOR MORE INFORMATION: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

William T. Johnstone,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27583]

Filings Under the Public Utility Holding Company Act of 1935, As Amended (“Act”)

October 23, 2002.

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 18, 2002, 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 18, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

PG&E Corporation, et al. (70–10047)

PG&E Corporation (“PG&E Corp.”), a holding company claiming exemption from registration under section 3(a)(1) of the Act by rule 2, One Market, Spear Tower, Suite 400, San Francisco, California 94105, Pacific Gas and Electric Company (“PG&E”), a direct public-utility company subsidiary of PG&E Corp., Newco Energy Corporation (“Newco”), a direct nonutility subsidiary of PG&E, Electric Generation LLC (“Gen”), a direct nonutility subsidiary of Newco, all at 77 Beale Street, San Francisco, California 94177, have filed an application with the Commission under sections 9(a)(2) and 10 of the Act. On October 16, 2002, the Commission issued a notice of the application (HCAR No. 27578). This supplemental notice replaces the prior notice to correct certain inaccuracies.

On April 6, 2001, PG&E filed a petition under chapter 11 of the U.S. Bankruptcy Code. On September 20, 2001, PG&E Corp. and PG&E (collectively, “Proponents”) jointly submitted to the United States Bankruptcy Court for the Northern District of California (“Bankruptcy Court”) a plan of reorganization for PG&E. The Proponents subsequently amended that plan (as amended, “Plan”). PG&E is a debtor-in-possession, and continues to provide all of the electric generation, electric transmission, gas transmission, and gas and electric local distribution services that it did before, except that it is not

able to purchase power to supply its net open position and is only able to make infrastructure investments. PG&E Corp., PG&E, Newco, and Gen (collectively, “Applicants”) request authority to effect certain transactions, described below, as set forth in the Plan.¹

I. Description of the Applicants

PG&E Corp., a California corporation, became the holding company of PG&E on January 1, 1997. Through other subsidiaries, PG&E Corp. is engaged in a number of nonutility businesses.² PG&E Corp.'s common stock and related preferred stock purchase rights are publicly traded on the New York Stock Exchange.

Newco was incorporated under the laws of the State of California on October 19, 2001. It is a wholly owned, direct subsidiary of PG&E. Newco is the sole member of three limited liability companies: ETrans LLC (“ETrans”); Gen; and GTrans LLC (“GTrans”). Currently, Gen is an inactive nonutility subsidiary that owns all of the outstanding ownership interests of twenty-seven limited liability companies (collectively, “GenSub LLCs”).³ The GenSub LLCs are California limited liability companies formed on October 30, 2001.

PG&E, a California corporation, is a public-utility company engaged principally in the business of providing regulated electricity and natural gas distribution and transmission services throughout most of northern and central California. Currently, all of the outstanding shares of common stock of PG&E are held directly or indirectly by PG&E Corp.⁴ In addition, PG&E has a number of series of publicly held preferred stock outstanding. The

¹ To date, the Bankruptcy Court has not approved the Plan or any other proposed plan to reorganize PG&E, including the plan submitted by the California Public Utilities Commission (“CPUC”).

² These nonutility subsidiaries are organized under its wholly owned direct subsidiary, PG&E National Energy Group LLC (“PG&E NEG”).

³ The GenSub LLCs are: Diablo Canyon LLC; Mokelumne River Project LLC; Rock Creek-Cresta Project LLC; Haas-Kings River Project LLC; Crane Valley Project LLC; Pit 1 Project LLC; Hat Creek 1 and 2 Project LLC; Poe Project LLC; Pit 3, 4 and 5 Project LLC; Upper NF Feather River Project LLC; Spring Gap-Stanislaus Project LLC; Kern Canyon Project LLC; Kilarc-Cow Creek Project LLC; Chili Bar Project LLC; Desabla-Centerville Project LLC; McCloud-Pit Project LLC; Drum-Spaulding Project LLC; Merced Falls Project LLC; Bucks Creek Project LLC; Potter Valley Project LLC; Phoenix Project LLC; Kerckhoff 1 and 2 Project LLC; Narrows Project LLC; Balch 1 and 2 Project LLC; Helms Project LLC; Battle Creek Project LLC; and Tule River Project LLC.

⁴ PG&E Corp. holds approximately ninety-four percent of PG&E's common stock directly and approximately six percent indirectly through PG&E Holdings LLC (“PG&E Holdings”), a wholly-owned subsidiary of PG&E.

company's service territory covers approximately 70,000 square miles, and includes all or a portion of forty-eight of California's fifty-eight counties. As of December 31, 2001, PG&E employed approximately 19,000 people. PG&E's generation facilities consist primarily of hydroelectric and nuclear generating plants, and have an aggregate net operating capacity of approximately 6,649 megawatts ("MW"). As of December 31, 2001, PG&E owned approximately 18,648 miles of interconnected transmission lines of 60 kilovolts ("kV") to 500 kV and transmission substations having a capacity of approximately 7,091 megavolt-amperes ("MVA"). PG&E distributes electricity to its customers through approximately 116,460 circuit miles of distribution system and distribution substations having a capacity of approximately 24,894 MVA. PG&E relinquished operational control, but not ownership, of its electric transmission facilities to the California Independent System Operator ("Cal-ISO").⁵ PG&E also owns and operates a gas transmission, storage and distribution system in California. As of December 31, 2001, PG&E's gas system consisted of approximately 6,254 miles of transmission pipelines, three gas storage facilities, and 38,410 miles of gas distribution lines. PG&E's peak send-out of gas on its integrated system in California during the year ended December 31, 2001, was 3,793 million cubic feet ("MMcf"). The total volume of gas throughput during 2001 was approximately 916,635 MMcf of which 270,556 MMcf was sold to direct end-use or resale customers and 646,079 MMcf was transported as customer-owned gas. As of December 31, 2001, PG&E served approximately 3.9 million gas customers.

Currently, the Federal Energy Regulatory Commission ("FERC") regulates PG&E's electric transmission rates and access, interconnections, operation of the Cal-ISO, and terms and rates of wholesale electric power sales. In addition, most of PG&E's hydroelectric facilities operate in accordance with licenses issued by FERC. The Nuclear Regulatory Commission ("NRC") oversees the licensing, construction, operation and decommissioning of nuclear facilities,

⁵ The Cal-ISO controls the operation of the California transmission system, is responsible for assuring the reliability of the electric system, provides open access transmission service on a nondiscriminatory basis, has responsibility for meeting applicable reliability criteria, planning transmission additions and assuring the maintenance of adequate reserves, and is subject to tariffs filed with the FERC.

including PG&E's Diablo Canyon Power Plant ("DCPP") and the retired Humboldt Bay Power Plant Unit 3. The CPUC has jurisdiction to set retail rates and conditions of service for PG&E's electric distribution, gas distribution and gas transmission services in California. The CPUC also has jurisdiction over PG&E's sales of securities, dispositions of utility property, energy procurement on behalf of its electric and gas retail customers, and certain aspects of PG&E's siting and operation of its electric and gas transmission and distribution systems. In addition, the California Energy Commission has jurisdiction over the siting and construction of new thermal electric generating facilities fifty MW and greater in size.

II. The Plan

As of November 30, 2001, the total estimated allowed claims against PG&E was \$13.135 billion. The Plan provides that PG&E pay its creditors \$3.92 billion in cash that it currently has on hand and, as discussed below, finance the remaining \$9.215 billion through asset sales, issuances of new securities and replacement mortgage bonds, and continuations of existing debt.

A. Asset Sales

Under the Plan, PG&E's four distinct lines of business—electric transmission; electric generation; gas transmission; and gas and electric distribution—would be structurally separated by dividing PG&E's assets and liabilities. PG&E would transfer, among other things, its electric transmission assets to ETrans in exchange for approximately \$400 million in cash⁶ and approximately \$650 million in long-term notes issued to PG&E for transfer to its creditors.⁷

In exchange for approximately \$850 million in cash⁸ and approximately \$1,550 million in long-term notes issued to PG&E for transfer to its creditors,⁹ PG&E would transfer, among other things, most of its electric generation assets to the GenSub LLCs.

PG&E would transfer, among other things, certain gas transmission assets, to GTrans in exchange for \$400 million

⁶ Applicants state that ETrans would raise this cash by selling long-term notes to the public or to third parties in private offerings.

⁷ Applicants state that the allocation between cash and notes may change based on market conditions and other factors.

⁸ Applicants state that Gen, the parent of the GenSub LLCs, would raise this cash by selling long-term notes to the public or to third parties in private offerings.

⁹ See above, at n. 7.

in cash¹⁰ and \$500 million in long-term notes issued to PG&E for transfer to its creditors.¹¹

B. Other Financing

1. Under the Plan, PG&E would issue approximately \$3,706 million in new long-term notes to the public or to third parties in private offerings. PG&E would also issue new mortgage bonds to replace existing mortgage bonds. In addition, certain existing debts of PG&E would remain in place, for which PG&E would be responsible.

C. Asset and Debt Allocation

The Plan provides that: ETrans acquire 8.9% of PG&E's assets and assume 11.4% of its debt; Gen acquire 29.7% of PG&E's assets and assume twenty-six percent of its debt; and GTrans acquire 7.8% of PG&E's assets and assume 9.8% of its debt. Correspondingly, PG&E would retain 53.5% of its assets and be responsible for 52.8% of its debt.

III. The Reorganization

After its electric generation, electric transmission, and gas transmission assets are transferred, PG&E would dividend to PG&E Corp. all of its stock in Newco, and PG&E Corp. would dividend to its shareholders all of the common stock of PG&E (collectively, "Reorganization").¹² After the Reorganization, PG&E ("Reorganized PG&E") would no longer be an associate company with respect to ETrans, Gen, or GTrans. Applicants project, on a *pro forma* basis, that the common equity of PG&E Corp., as a percentage of its total capitalization, would be 21.1% as of December 31, 2002.

In accordance with lease agreements between the GenSub LLCs and their parent company, Gen would operate its subsidiaries' facilities.¹³ Consequently, upon receipt by the GenSub LLCs of PG&E's utility assets, Gen would be a public-utility company within the meaning of the Act by virtue of its operation of those assets. Under the Plan, Gen and PG&E would enter into a Master Power Purchase and Sales Agreement ("PSA"). The PSA provides that, for twelve years, Gen sell and Reorganized PG&E purchase the capacity, energy and other electrical

¹⁰ Applicants state that GTrans would raise this cash by selling long-term notes to the public or to third parties in private offerings.

¹¹ See above, at n. 7.

¹² PG&E Holdings LLC would retain its ownership of approximately six percent of PG&E's outstanding common shares.

¹³ The term of each lease is for as long as each GenSub LLC holds a license issued by the FERC to operate (or by the NRC to possess, use or operate) its facility.

products from Gen's facilities and procured by Gen under its certain contracts. Applicants state that they are seeking approval from the FERC for the proposed market-based rates provided for by the PSA. Under the PSA, Reorganized PG&E would have the right to dispatch (*i.e.*, direct the timing and level of operation) the facilities within legal and contractual constraints so that the output is delivered primarily when Reorganized PG&E needs it to serve its customers. The GenSub LLCs may also be public-utility companies by virtue of their direct ownership of generating facilities,¹⁴ in which case Gen would also be a "holding company" as a result of its ownership of all the outstanding ownership interests in the GenSub LLCs.¹⁵ Applicants also state that Gen would claim exemption by rule 2 from registration under section 3(a)(1) of the Act. Applicants state that, after the Reorganization, the FERC would have license and operating jurisdiction over most of the hydroelectric facilities and rate jurisdiction over the sale of the output of Gen and its subsidiaries, and the NRC would continue its jurisdiction over the operations of the Diablo Canyon Power Plant. Applicants project, on a *pro forma* basis, that the common equity of Gen, as a percentage of its total capitalization, would be -97.2% as of December 31, 2002.

ETrans would be a public-utility company as a result of its ownership and operation of transmission assets. Applicants state that the FERC would continue to have jurisdiction over the rates, terms and conditions for all transmission and transmission-related services provided by ETrans. They also state that the FERC would have jurisdiction over ETrans' participation in the Cal-ISO or any future FERC-approved Western regional transmission organizations that would have operating control over ETrans' transmission assets under FERC tariffs. Applicants project, on a *pro forma* basis, that the common equity of ETrans, as a percentage of its total capitalization, would be 33.8% as of December 31, 2002.

PG&E Corp. and Newco would also be "holding companies," within the meaning of the Act, as a result of holding ownership interests in ETrans, Gen, the GenSub LLCs and, in the case of PG&E Corp., Newco. Applicants state that PG&E Corp. would continue to

¹⁴ Applicants argue that the GenSub LLCs would not be "public-utility companies" within the meaning of the Act but, alternatively, request authority for Gen to acquire them directly and Newco and PG&E Corp. to acquire them indirectly.

¹⁵ See *supra*, at n.8.

claim exemption,¹⁶ and Newco would claim exemption, from registration by rule 2 under section 3(a)(1) of the Act. Applicants state that, with the exception of GTrans,¹⁷ PG&E Corp. would continue to own its existing nonutility businesses through PG&E NEG.

Reorganized PG&E would continue to provide gas and electric distribution services using assets that it currently owns. PG&E's preferred stock would remain in place as the preferred stock of Reorganized PG&E. Applicants state that the CPUC would continue to have jurisdiction over Reorganized PG&E's retail electric and gas distribution assets, rates, and services. Applicants project, on a *pro forma* basis, that the common equity of Reorganized PG&E, as a percentage of its total capitalization, would be 44.4% as of December 31, 2002.

IV. Summary of Proposed Transactions

Applicants request authority for: (1) Gen to acquire directly the GenSub LLCs; (2) Newco to acquire directly Gen and ETrans, and to acquire indirectly the GenSub LLCs; and (3) PG&E Corp. to acquire directly Newco, and acquire indirectly ETrans, Gen, and the GenSub LLCs.¹⁸ If necessary, Applicants also request authority for PG&E to acquire Newco, ETrans and Gen on an interim basis, between the time that utility assets are transferred to ETrans and Gen and the Reorganization is completed.¹⁹

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

Margaret H. McFarland,

Deputy Secretary.

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¹⁶ On July 5, 2001, the California Attorney General filed a petition requesting that the Commission terminate PG&E Corp.'s claimed exemption and require that PG&E Corp. register under section 5 of the Act or modify the company's exemption to ensure compliance with California law.

¹⁷ GTrans would not be a public-utility company within the meaning of the Act because, according to Applicants, it would provide only gas transmission services.

¹⁸ See *supra*, at n.8.

¹⁹ Applicants also state that, if necessary, PG&E will claim exemption from registration by rule 2 under the Act for the interim period during which it will hold all of the ownership interests in Newco.

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-25784; File No. 812-12847]

The Equitable Life Assurance Society of the United States, *et al.*; Notice of Application

October 23, 2002.

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

ACTION: Notice of application for an order of approval pursuant to section 26(c) of the Investment Company Act of 1940 (the "1940 Act") and an order of exemption pursuant to section 17(b) of the 1940 Act from section 17(a) of the 1940 Act.

APPLICANTS: For purposes of the order requested pursuant to section 26(c), The Equitable Life Assurance Society of the United States ("Equitable"), Separate Account A of Equitable ("Separate Account A"), Separate Account FP of Equitable ("Separate Account FP"), Separate Account No. 45 of Equitable ("Separate Account 45"), Separate Account No. 301 of Equitable ("Separate Account 301"), The American Franklin Life Insurance Company ("American Franklin"), Separate Account VUL of American Franklin, Integrity Life Insurance Company ("Integrity"), Separate Account VUL of Integrity, National Integrity Life Insurance Company ("National Integrity") and Separate Account VUL of National Integrity (collectively, the "section 26 Applicants").¹ For purposes of the order pursuant to section 17(b), Equitable, Separate Account A, Separate Account FP, Separate Account 45, Separate Account 66 and Separate Account 301 and EQ Advisors Trust (the "Trust") (collectively with Equitable and its Separate Accounts, the "section 17 Applicants").

SUMMARY OF APPLICATION: Applicants request an order (a) approving the proposed substitution by certain insurance company separate accounts of Class 1A shares of the EQ/Alliance International Portfolio for Class 1A shares of the EQ/Alliance Global Portfolio and Class 1B shares of the EQ/Alliance International Portfolio for Class

¹ Separate Account A, Separate Account FP, Separate Account 45, Separate Account No. 66 of Equitable ("Separate Account 66"), Separate Account 301, Separate Account VUL of American Franklin, Separate Account VUL of Integrity and Separate Account VUL of National Integrity are referred to herein collectively as the "Separate Accounts" and individually as a "Separate Account." Separate Account A, Separate Account FP, Separate Account 45, Separate Account 66 and Separate Account 301 are referred to herein collectively as the "EQ Separate Accounts" and individually as an "EQ Separate Account."