in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase made once an investment by a Fund of Funds in the securities of an Unaffiliated Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the determinations of the Unaffiliated Fund's Board were made.

8. A Fund of Funds will pay no sales load when purchasing an ING Guaranteed Contract, and will be permitted to remove its assets from an ING Guaranteed Contract at any time without the imposition of a sales charge or market value adjustment.

9. Prior to purchasing an ING Guaranteed Contract, and prior to any periodic adjustment to the rate of interest on an ING Guaranteed Contract held by a Fund of Funds, the Board of the Fund of Funds, including a majority of the Disinterested Trustees, will make a determination that (i) purchasing or maintaining, as applicable, the ING Guaranteed Contract is in the best interests of the Fund of Funds and its shareholders and does not involve overreaching on the part of any person concerned, and (ii) the guaranteed rate on the ING Guaranteed Contract is at least as favorable as the guaranteed rate on substantially similar guaranteed contracts offered by the ING Insurance Companies and other insurance companies. This determination, and the information upon which it was based, will be recorded fully in the minute books of the Fund of Funds.

10. Prior to an investment in shares of an Unaffiliated Fund in excess of the limit in section 12(d)(1)(A)(i), the Fund of Funds and the Unaffiliated Fund will execute an agreement stating, without limitation, that their boards of directors or trustees and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order (''Participation Agreement''). At the time of its investment in shares of an Unaffiliated Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Unaffiliated Fund of the investment. At such time, the Fund of Funds also will transmit to the Unaffiliated Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Unaffiliated Fund and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

11. Prior to approving any investment advisory or management contract under section 15 of the Act, the Board of each Fund of Funds, including a majority of the Disinterested Trustees, will find that the advisory or management fees charged under such contract are based on services provided that are in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Affiliated Underlying Funds or Unaffiliated Funds in which the Fund of Funds may invest. This finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Fund of Funds.

12. The Fund of Funds Adviser will waive or offset fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to a plan adopted by an Unaffiliated Fund under rule 12b–1 under the Act) received by the Fund of Funds Adviser or an affiliated person of the Fund of Funds Adviser from an Unaffiliated Underlying Fund, other than any advisory fees paid to the Fund of Funds Adviser or its affiliated person by an Unaffiliated Fund, in connection with the investment by the Fund of Funds in the Unaffiliated Underlying Fund. Any Fund of Funds Subadviser will waive fees otherwise payable to the Fund of Funds Subadviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received from an Unaffiliated Underlying Fund by the Fund of Funds Subadviser, or an affiliated person of the Fund of Funds Subadviser, other than any advisory fees paid to the Fund of Funds Subadviser or its affiliated person by the Unaffiliated Fund, in connection with the investment by the Fund of Funds in the Unaffiliated Underlying Fund made at the direction of the Fund of Funds Subadviser. In the event that the Fund of Funds Subadviser waives fees, the benefit of the waiver will be passed through to the Fund of Funds.

13. With respect to Registered Separate Accounts that invest in a Fund of Funds, no sales load will be charged at the Fund of Funds level or at the Underlying Fund level. Other sales charges and service fees, as defined in rule 2830 of the Conduct Rules of the NASD, if any, will only be charged at the Fund of Funds level or at the Underlying Fund level, not both. With respect to other investments in a Fund of Funds, any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in rule 2830 of the Conduct Rules of the NASD.

14. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund (i) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading Section 12(d)(1) of the Act); or (ii) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to (a) acquire securities of one or more affiliated investment companies for short-term cash management purposes, or (b) engage in interfund borrowing and lending transactions.

15. The Board of any Fund of Funds will satisfy the fund governance standards as defined in rule 0–1(a)(7) under the Act (''Governance Standards'') by the later of (i) the compliance date for the rule (''Compliance Date'') or (ii) the earlier of the date of reliance on the order or the date on which the Fund of Funds executes a Participation Agreement. The Board of any Unaffiliated Fund will satisfy the Governance Standards by the later of (i) the Compliance Date or (ii) the date on which the Unaffiliated Fund executes a Participation Agreement.

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

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–5735 Filed 10–17–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–28045]

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

October 12, 2005.

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 7, 2005, to the Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303, 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 7, 2005, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

AGL Resources Inc. et al. (70–10175)

AGL Resources Inc., (''AGL Resources''), a registered holding company, Ten Peachtree Place, Suite 1000, Atlanta, Georgia 30309; its public utility subsidiaries: Atlanta Gas Light Company (''AGLC''), Chattanooga Gas Company (''CGC''), Virginia Natural Gas, Inc. (''VNG''), Pivotal Utility Holdings, Inc. (''Pivotal'') and Virginia Gas Distribution Company (''VGDC'') (AGLC, CGC and VNG are collectively referred to as the '' Utility Subsidiaries'')[1]; and the following of its nonutility companies: AGL Rome Holdings, Inc., Georgia Natural Gas Company, AGL Investments, Inc., AGL Networks, LLC, AGL Energy Corporation, AGL Propane Services, Inc., Trustees Investments, Inc., Customer Care Services, Inc., Pivotal Propane of Virginia, Inc., Southeastern LNG, Inc., AGL Services Company, AGL Capital Corporation, Global Energy Resources Insurance Corporation, AGL Capital Trust I, AGL Capital Trust II, and AGL Capital Trust III, all of Ten Peachtree Place, Suite 1000, Atlanta Georgia 30309; SouthStar Energy Services LLC, 817 West Peachtree Street, Atlanta Georgia 30308; and Sequent Energy Management, LP, Sequent, LLC, Sequent Holding, LLC, Sequent Energy Marketing, LP, Pivotal Energy Services, Inc., Jefferson Island Storage & Hub, LLC, (''JISH''), Pivotal Jefferson Island Storage & Hub LLC (''PJISH'') and Pivotal Storage, Inc. (''PSI''), all of 1200 Smith Street, Suite 900, Houston, Texas 77002 (collectively, the ''Nonutility Subsidiaries''; AGL Resources, the Utility Subsidiaries and the Nonutility Subsidiaries are collectively referred to as ''Applicants'') have filed a post-effective amendment (''Application'') under sections 6(a), 7, 9, 10 and 12 of the Act and rules 45, and 54 under the Act.

Applicants request a supplemental order from the Commission for JISH, PJISH and PSI to become parties to and participate in the nonutility money pool as previously authorized for nonutility subsidiaries of AGL Resources (''Nonutility Money Pool'') under the Commission's order dated April 1, 2004 (HCAR No. 27828) (''April 2004 Order'') in order to manage JISH, PJISH and PSI's short-term capital requirements in connection with the gas storage business described below.

AGL Resources directly or indirectly owns all of the issued and outstanding common stock of the Utility Subsidiaries, which are natural gas local distribution utility companies. The Utility Subsidiaries construct, manage and maintain natural gas pipelines in Georgia, Tennessee Virginia, Maryland, Florida and New Jersey and serve more than 2.3 million end-use customers. By order dated November 24, 2004 (HCAR No. 27917) (''November 2004 Order''), AGL Resources was authorized to acquire NUI Corporation and its subsidiaries, including NUI Utilities, Inc. (since renamed Pivotal Utility Holdings, Inc.) and several nonutility companies. The November 2004 Order granted financing authority to NUI Corporation and its subsidiaries, and permitted the nonutility subsidiaries of NUI Corporation to participate in the AGL Resources nonutility money pool under the same terms and conditions as AGL Resources' existing nonutility subsidiaries.

Through its various nonutility subsidiaries, AGL Resources engages in asset optimization, producer services, wholesale marketing and risk management; marketing of natural gas and related services to retail customers; and providing telecommunications conduit and dark fiber. JISH owns and operates two salt dome gas storage caverns with 9.9 million Dekatherms (Dth) of total capacity and approximately 7.3 million Dth of working gas capacity. The facility has withdrawal capacity of over 720,000 Dth per day and injection capacity of 240,000 Dth per day. Through its interconnections with eight pipelines and its access to the Henry Hub, JISH will provide additional access to natural gas supply for AGL Resources' utilities.

Through its indirect wholly owned subsidiary, PJISH, AGL Resources acquired JISH on October 1, 2004 for approximately $90 million, which included approximately $9 million of working gas inventory. Applicants state that the acquisition of JISH is exempt under Rule 58.

Additionally, AGL Resources has formed two new non-utility subsidiaries, PJISH and PSI, which are intermediate holding companies for JISH. PJISH is a subsidiary of PSI and PSI is a subsidiary of AGL Investments, which is a direct wholly owned subsidiary of AGL Resources. Applicants state that the creation of PJISH and PSI is exempt under the April 2004 Order.

The Commission authorized the Applicants in the April 2004 Order to engage in a system of external and intrasystem financing. In particular, as it relates to this Application, AGL Resources, the Utility Subsidiaries, and certain of AGL Resources nonutility subsidiaries were authorized to continue as parties to the AGL Resources utility money pool and Nonutility Money Pool. In addition, to the extent not exempt under Rule 52(b), the nonutility subsidiaries covered by the April 2004 Order were authorized to make unsecured short-term borrowings from the Nonutility Money Pool, to contribute surplus funds to the Nonutility Money Pool, and to lend and extend credit to one another through the Nonutility Money Pool. In the April 2004 Order, the Commission also reserved jurisdiction over the participation of any newly formed or acquired company in either money pool as borrower.

Applicants request authority for JISH, PHISH and PSI to become parties to and participate in the Nonutility Money Pool, subject to the same terms and conditions previously authorized by Commission for the nonutility subsidiaries in the April 2004 Order. Applicants further request that the Commission again reserve jurisdiction over the participation of any other current or future nonutility subsidiaries as a borrower under the Nonutility Money Pool. Applicants propose no other changes to the terms, condition or limitations of the April 2004 Order by this Application.

[1] AGLC, VNG, and CGC are located at Ten Peachtree Place, Suite 1000, Atlanta, Georgia 30309. Pivotal is located at 550 Route 202–206, Box 760, Bedminster, New Jersey, and VGDC is located at 1096 Ole Berry Drive, Abingdon, Virginia 24210.

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

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–5720 Filed 10–17–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52592; File No. SR–Amex–2004–76]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Relating to Contingency Trading Procedures

October 12, 2005.

I. Introduction

On September 10, 2004, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Amex Rule 119A regarding contingency trading procedures. On August 26, 2005, the Exchange submitted Amendment No. 1 to the proposal.[3] On August 29, 2005, the Exchange submitted Amendment No. 2 to the proposal.[4] The proposed rule change, as amended, was published for notice and comment in the **Federal Register** on September 7, 2005.[5] The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change, as amended.

II. Description of Proposal

As set forth in the Notice, the Amex proposes to adopt a new Rule 119A, setting forth the Exchange's contingency trading with respect to the use of the Exchange's ''Alternative Trading Facility'' (''ATF''), which is a remote facility established by the Exchange for trading securities admitted to dealings in the event that the Exchange's primary trading facility at 86 Trinity Place is wholly or partially unusable.

Under proposed Amex Rule 119A(b) the provisions of the Constitution and Rules of the Exchange are applicable to trading conducted on the ATF, except to the extent that the provisions of Amex Rule 119A govern, or unless the context otherwise requires. Paragraph (c) of proposed Amex Rule 119A provides that the Exchange's Executive Vice President for Market Operations and Trading Floor Systems or his or her designee(s) shall have authority to designate the individuals who will be allowed to conduct a securities business on the ATF from among those members, member organizations, and persons associated with those members and member organizations who are entitled to trade and support trading at the Exchange's facility at 86 Trinity Place. Not all persons who generally conduct business at the Exchange's regular facility will be able to use the ATF due to occupancy restrictions at the facility. One or more individuals from each broker and specialist unit will be allowed to conduct business on the ATF. Registered Option Traders (''ROTs'') will be allowed to conduct business on the ATF to the extent that there is space in the ATF to accommodate them based upon their volume of trading. Paragraph (d) to proposed Amex Rule 119A provides that if a ROT is not allowed to trade on the ATF, the ROT may initiate opening trades for his or her market maker account from off the ATF without reference to in-person requirements or the requirement that off-floor orders be effected only for hedging, reducing risk, rebalancing or liquidating positions.

The Exchange states that, although it has installed tethered telephones at the ATF, it has not replicated its wireless telephone system at this facility. As a result, the Amex is proposing to allow members to use personal cellular telephones to conduct business on the ATF subject to the same conditions that were applicable to the use of personal cellular telephones on the Amex following September 11, 2001. The conditions applicable to the use of personal cellular telephones on the ATF are set forth in paragraph (e) to the proposed rule. Paragraph (f) provides that Exchange Officials may substitute for Senior Floor Officials without reference to their seniority in the event that a Floor Official's ruling is appealed to a three Senior Floor Official panel and there is an insufficient number of available Senior Floor Officials to consider the appeal.[6]

III. Discussion

After careful consideration, the Commission finds that the Amex's proposed rule change, as amended, is consistent with Section 6(b) of the Act[7] in general and furthers the objectives of Section 6(b)(5)[8] in particular in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to, and facilitating transactions in securities.[9]

The Commission believes that the Amex's proposed rule change, as amended, is an important element of ongoing contingency planning and reasonably designed to permit trading in the event that the Exchange's primary facilities are not available. As proposed, the Commission believes that the ATF is reasonably designed to provide a venue sufficient to accommodate a minimum threshold of Amex members and personnel to support continued operations of the Exchange on a contingency basis. The Commission further believes that the provisions of proposed Amex Rule 119A are reasonably designed to permit the fair and orderly trading of Amex-listed securities on the ATF.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (SR–Amex–2004–76), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–5719 Filed 10–17–05; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange substantially revised the proposed rule text and corresponding description of the proposal in its Form 19b–4. Amendment No. 1 replaced Amex's original filing in its entirety.

[4] In Amendment No. 2, the Exchange made minor corrections to the rule text.

[5] *See* Securities Exchange Act Release No. 52360 (August 30, 2005), 70 FR 53260 (''Notice'').

[6] The Exchange recently amended Amex Rule 22 to establish a three-level review process in which Floor Official decisions, as needed, may be appealed to a three Senior Floor Official Panel. *See* Securities Exchange Act Release No. 52527 (September 29, 2005), 70 FR 58246 (October 5, 2005) (SR–Amex–2005–052).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 10 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).