

Commission also seeks comment on whether the rules should incorporate any requirements of notice to interested state commissions of the consummation of financing by nonutility subsidiaries of registered holding companies.

The Commission also proposes to rescind the Statements of Policy. The Statements of Policy were formulated by the Commission's staff nearly forty years ago to specify the terms to be included in new issues of first mortgage bonds and preferred stock. As the securities markets have developed, the Commission has found that the Statements of Policy have become anachronistic and hinder the ability of registered companies to raise capital. As a result, the Commission has permitted more and more deviations on a case-by-case basis from the requirements of the Statements of Policy.<sup>19</sup> In addition, in 1992, for similar reasons, the Commission eliminated compliance with the Statements of Policy as a condition to use of Rule 52.<sup>20</sup> The Commission believes that it is no longer appropriate to require specific terms to be included in securities issues, and requests comment on this proposed rescission.

### Conclusion

The Commission believes that the registered holding-company systems should have a greater ability to engage in routine financings without the regulatory burden of prior Commission authorization, and that this may be done without jeopardizing the interests the Act is designed to protect. The rule amendments proposed today are intended to accomplish this purpose.

### Regulatory Flexibility Act Certification

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the proposed amended rules will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, may be obtained from Bonnie Wilkinson, Office of Public Utility Regulation, Division of Investment

<sup>19</sup> See, e.g., Georgia Power Co., Holding Co. Act Release No. 25033 (Feb. 7, 1990) (authorizing deviation from redemption provisions required by Statement of Policy for first mortgage bonds), and System Energy Resources, Inc., Holding Co. Act Release No. 24318 (Feb. 18, 1987) (authorizing charter amendment with earnings coverage requirement different from Statement of Policy for preferred stock). The Statements of Policy themselves contemplate that "deviations from these standards should be permitted in appropriate cases." Holding Co. Act Release Nos. 13105 and 13106 (Feb. 16, 1956).

<sup>20</sup> Holding Co. Act Release No. 25573 (July 7, 1992), 57 FR 31120 (July 14, 1992).

Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

### Costs and Benefits

It appears that amended rules 45 and 52 will substantially decrease regulatory compliance costs for the registered holding companies.

### Paperwork Reduction Act

The proposed amendment is subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 79 *et seq.*) and will be submitted to the Office of Management and Budget for approval.

### Statutory Authority

The Commission is proposing to amend rules 45 and 52 pursuant to sections 6, 9, 12 and 20 of the Act.

### List of Subjects in 17 CFR Part 250

Electric utilities, Holding companies, Natural gas, Reporting and recordkeeping requirements, Securities.

### Text of Proposed Rules

For the reasons set forth in the preamble, Part 250 of chapter II, title 17, of the Code of Federal Regulations is proposed to be amended as follows:

### PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. The authority citation for part 250 continues to read as follows.

**Authority:** 15 U.S.C. 79c, 79f(b), 79i(c)(3), 79t, unless otherwise noted.

2. Section 250.45 is amended by adding paragraph (b)(7) to read as follows:

**§ 250.45 Loans, extensions of credit, donations and capital contributions to associate companies.**

\* \* \* \* \*

(b) *Exceptions.* \* \* \*

(7) An agreement by any subsidiary company of a registered holding company to assume liability (as guarantor, co-maker, indemnitor, or otherwise) with respect to any security issued by any other subsidiary company in the same holding company system, provided that the issuance and sale of such security is exempt from the declaration requirements of section 6(a) of the Act (15 U.S.C. 79f(a)) pursuant to § 250.52.

3. Section 250.52 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 250.52 Exemption of issue and sale of certain securities.**

(a) Any registered holding-company subsidiary which is itself a public-

utility company shall be exempt from section 6(a) of the Act (15 U.S.C. 79f(a)) and rules thereunder with respect to the issue and sale of any security, of which it is the issuer if:

(1) The issue and sale of such security are solely for the purpose of financing the business of such public-utility subsidiary company;

(2) The issue and sale of such security have been expressly authorized by the state commission of the state in which such subsidiary company is organized and doing business; and

(3) The interest rates and maturity dates of any debt security issued to an associate company are designed to parallel the effective cost of capital of that associate company.

(b) Any subsidiary of a registered holding company which is not a holding company, a public-utility company, an investment company, or a fiscal or financing agency of a holding company, a public-utility company or an investment company shall be exempt from section 6(a) of the Act (15 U.S.C. 79f(a)) and rules thereunder with respect to the issue and sale of any security, of which it is the issuer if:

(1) The issue and sale of such security are solely for the purpose of financing the existing business of such subsidiary company; and

(2) The interest rates and maturity dates of any debt security issued to an associate company are designed to parallel the effective cost of capital of that associate company.

\* \* \* \* \*

Dated: June 20, 1995.

By the Commission.

**Jonathan G. Katz,**

*Secretary.*

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 250 and 259

[Release No. 35-26313; File No. S7-12-95]

RIN 3235-AG46

**Exemption of Acquisition By Registered Public-Utility Holding Companies of Securities of Nonutility Companies Engaged in Certain Energy-Related and Gas-Related Businesses; Exemption of Capital Contributions and Advances to Such Companies**

**AGENCY:** Securities and Exchange Commission.