SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 70 FR 54970, September 19, 2005.

STATUS: Closed Meeting.

PLACE: 100 F Street, NE., Washington, DC.

ANNOUNCEMENT OF ADDITIONAL MEETING: Additional Meeting.

An additional Closed Meeting has been scheduled for Friday, September 23, 2005 at 9 a.m.

Commissioners and certain staff members who have an interest in the matter will attend the Closed Meeting.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(ii) and (10) permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Atkins, as duty officer, determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting will be: Institution and settlement of an injunctive action.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: September 22, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–19316 Filed 9–23–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–28032]

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

September 19, 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 October 14, 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 October 14, 2005, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Entergy Corporation, et al. (70–10324)

Entergy Corporation (''Entergy''), a Delaware corporation and registered holding company, and its wholly-owned subsidiaries Entergy Louisiana, Inc., (''Company''), a Louisiana corporation, and Entergy Services, Inc. (''ESI''), a Delaware corporation all located at 639 Loyola Avenue, New Orleans, LA 70113, (together, ''Applicants''), have filed an application-declaration (''Application'') with the Commission under sections 6(a), 7, 9(a), 10, 12(b), 12(c) and 13(b) of the Act and rules 42, 43, 45, 46, 54, 87, 90 and 91 under the Act.

Introduction and Background Information

Description of the Company

The Company, which is a direct subsidiary of Entergy, owns and operates a retail electric utility business in certain parishes in the state of Louisiana. The Company, together with Entergy's other domestic retail electric utility subsidiaries (*i.e.*, Entergy Arkansas, Inc. (''EAI''), Entergy Gulf States, Inc. (''EGSI''), Entergy Mississippi, Inc. (''EMI'') and Entergy New Orleans Inc. (''ENOI'')), collectively provide electric service to approximately 2,662,000 customers in portions of Arkansas, Louisiana (including the City of New Orleans), Mississippi and Texas. As of December 31, 2004, the Company has approximately 662,000 electric utility customers and owns or leases approximately 5363 MWs of gas/oil and nuclear generating capacity in Louisiana. In addition, in June 2005, the Company acquired a 718 MW power plant from Perryville Energy Partners, LLC, located near Monroe, Louisiana. Among its other assets, the Company also holds (i) a 33% equity ownership interest in SFI (''SFI Ownership Interest''), a fuel procurement company formed in 1972 as a jointly-owned nonutility subsidiary of Entergy's four original domestic retail operating companies (*i.e.*, EAI, EMI, ENOI and the Company), as well as (ii) $14,223,000 in notes receivable from SFI (''SFI Notes Receivable'') relating to loans provided by the Company and the other original operating companies for the purpose of financing SFI's operations.

Reason for Proposed Transactions

Under the Louisiana Revised Statutes Section 47.601A, the Company is obligated to pay corporation franchise taxes in the state of Louisiana. These taxes impose a substantial financial obligation on the Company and its ratepayers. For example, the Company's 2005 Louisiana franchise tax liability was $10.3 million. Louisiana law requires every Louisiana corporation (and every non-Louisiana corporation that qualifies to do business in Louisiana or is doing business in Louisiana) to pay this tax. However, Louisiana law does not subject limited liability companies to this tax. For this reason, in Docket No. U–20925 (RRF 2004) of the Louisiana Public Service Commission (''LPSC''), the LPSC staff recommended that the Company review the feasibility of restructuring its business form into a limited liability company in order to eliminate the Company's obligation to pay franchise taxes and the Company agreed to this recommendation. Applicants state that the proposed restructuring would implement the LPSC staff recommendation in Docket No. U–20925. Upon the approval of the proposed restructuring, the resulting decrease in the Company's jurisdictional revenue requirement (which consists of the anticipated franchise tax savings less the costs associated with the restructuring, amortized over an appropriate period of time) would be fully reflected in the Company's rates.

Specifically, the Company proposes to restructure itself, through a two step process, into a new company, Holdings, and (i) a newly formed direct subsidiary of Holdings, referred to herein as ELL, which at the time of the Merger will become a public utility company, succeed to all of the Company's utility operations and be allocated substantially all of Holding's assets and

other properties (including all of the utility assets), as well as assume substantially all of the obligations of Holdings in effect prior to the Merger (including all of its debt securities and leases) and (ii) another newly formed subsidiary of Holdings, ELP, which at the time of the Merger, will be allocated certain undeveloped real property of the Company, known as the St. Rosalie and Wilton Plant Sites (''Plant Sites''), as well as the SFI Ownership Interest and SFI Notes Receivable, and assume any obligations/liabilities relating to these assets. Applicants propose that Holdings become an intermediate holding company and, following the Merger, register as a holding company under the Act.

Applicants propose that Holdings serve as the parent of ELL, since Entergy would itself be exposed to Louisiana franchise tax liability in the event that ELL was to become a direct Entergy subsidiary. Applicants also propose that ELP be formed to hold the Plant Sites, the SFI Ownership Interest and the SFI Notes Receivable since (i) Holdings cannot retain any real property or other physical assets without also becoming subject to Louisiana franchise tax liability and (ii) Holdings would become subject to the jurisdiction of the LPSC if it retains the SFI Ownership Interest and SFI Notes Receivable, which currently are assets of the Company in rate base.

Proposed Restructuring

Conversion of the Company to Holdings, a Texas Corporation

The first step in the proposed restructuring is to change the place of incorporation of the Company from Louisiana to Texas. Since the Texas merger statute is only available for use by Texas corporations, this step allows the use of the flexible merger provisions of Article 5.01 of the Texas Business Corporation Act (''TBCA'') in the formation of ELL and ELP. Section 164 of the Louisiana Business Corporation Law and Article 5.17 of the TBCA permit a Louisiana corporation to convert to a Texas corporation. Under these statutes, the Company will adopt a Plan of Conversion under which the Company will continue its existence under the name of Entergy Louisiana, Inc., a Texas corporation (''Holdings''). Under the Plan of Conversion, all of the Common Stock and Preferred Stock of the Company will remain outstanding as the Common Stock and Preferred Stock of Holdings and the holders of these securities will have the same rights and interests in Holdings as they had in the Company immediately prior to the effective date of the Merger.[1] All of the ownership rights and interests in the real estate and other assets of the Company will continue to be owned by Holdings, subject to existing liens and encumbrances. Similarly, all liabilities and obligations of the Company will continue to be liabilities and obligations of Holdings, without impairment or diminution. It is intended that the Conversion of the Company to a Texas corporation under the Plan will qualify as a tax-free reorganization under Internal Revenue Code (''IRC'') Section 368(a)(1)(F), and not result in the imposition of any federal income tax.

The Merger

Applicants state that the second and final step in the proposed restructuring is to form ELL, the new Texas limited liability company that will own and operate the Company's retail electric business, and ELP, the new Texas limited liability company, will own the Plant Sites, the SFI Ownership Interest and the SFI Notes Receivable. Under Article 5.01 of the TBCA, Holdings will enter into a Plan of Merger (''Merger''), under which Holdings will continue to exist and ELL and ELP will be formed. Following the Merger, all of the Common Stock and Preferred Stock of Holdings will continue to be outstanding and will continue to be owned by the persons who owned these securities immediately prior to the Merger.[2] Also (i) 146,970,607 units of Common Membership Interests of ELL (''ELL Common Units''), representing all of the issued and outstanding Common Membership Units of ELL and (ii) 100 units of Common Membership Interests of ELP (''ELP Common Units''), representing all of the issued and outstanding Common Membership Units of ELP, will be issued and allocated to Holdings. Substantially all of the real estate and other property owned, leased and claimed by Holdings immediately prior to the Merger will be allocated to and vested in ELL.[3] However, Holdings will transfer to ELP the Plant Sites, the SFI Ownership Interest, the SFI Notes Receivable and working capital in an amount sufficient to fund the day-to-day business operations of ELP (''ELP Assets''). The allocation of property to ELL under the merger provisions of the TBCA is intended to be tax free under I.R.C. Section 351. The allocation to ELP also will be tax free, because ELP will be a disregarded entity for federal income tax purposes.

Applicants state that all liabilities and obligations of Holdings immediately prior to the Merger will be allocated to ELL, except liabilities and obligations relating to the ELP Assets, which will be allocated to ELP.[4] Holdings will have

[1] The Company has outstanding 146,970,607 shares of Common Stock, without par value, all of which are held by Entergy. The Company's outstanding Preferred Stock consists of 635,000 shares of Preferred Stock, with a par value of $100 per share, issued in eight series and 1,480,000 shares of Preferred Stock, with a par value of $25 per share.

[2] Applicants state that Entergy, as the holder of all of the Common Stock of Holdings, will consent to the Merger. While the Articles of Incorporation of the Company (and of Holdings) provide/will provide that the holders of at least two-thirds of the outstanding shares of Preferred Stock must also be obtained in order to merge with another corporation or to sell or otherwise dispose of all or substantially all of the assets of the Company, such approval is not required in the event that the transaction is approved by the Commission under the Act. Therefore, Applicants state that, assuming approval is granted by the Commission, the consent of the holders of the Company's Preferred Stock is not required to consummate the Merger.

[3] The assets that will be allocated to ELL include approximately:

(i) 6,081 MWs of electric generating capacity;

(ii) 2,700 miles of transmission lines and associated transmission facilities and

(iii) 20,362 pole miles of distribution lines and related facilities serving approximately 662,000 customers in Louisiana.

[4] Applicants state that the significant liabilities and obligations to be allocated to ELL include (as of December 31, 2004):

(i) $490 million of outstanding first mortgage bonds issued under the Company's Mortgage and Deed of Trust, dated April 1, 1944, as amended;

(ii) $415 million of pollution control revenue bonds, $232 million of which are secured by collateral first mortgage bonds;

(iii) approximately $248 million present value of future net minimum lease payments under the lease of a portion of Waterford 3;

(iv) lease payments relating to approximately $32 million of nuclear fuel and

(v) obligations under various power purchase and sale agreements, including the Unit Power Sales Agreement with System Energy Resources, Inc. (''System Energy''), various transmission service and interconnection agreements, and various fuel purchase and related agreements with SFI or non-affiliates, such as the Liquid Fuels Purchase Contract, between SFI, as Seller, and EAI, EMI, ENOI and the Company, as Buyers; the Nuclear Fuel and Fuel Services Agreement between SFI and certain of the System operating companies (including the Company) and System Energy; and the Fuel Lease with River Fuel Company #2, Inc., providing for the lease of nuclear fuel for Waterford 3.

The agreements governing these obligations do not prohibit the allocation of these obligations to ELL. The Company will obtain all required consents of parties to these agreements.

Applicants state that while the Plan of Merger also provides that the liabilities and obligations associated with the Plant Sites, the SFI Ownership Interest and the SFI Notes Receivable will be allocated to ELP, there are not expected to be any obligations associated with the Plant Sites, other than the payment of related taxes and any maintenance expenses, and there are no outstanding obligations/liabilities associated with the ownership of the SFI related assets. Following the Merger, SFI will continue to provide fuel procurement services to ELL on the same basis as such services are currently provided to the

Continued

continuing liability for those liabilities and obligations allocated to ELL and ELP at the time of the Merger as provided by law, but not for any obligation or liability incurred by ELL or ELP after the Merger.[5] Holdings also will retain an amount of working capital sufficient to meet its business needs. ELL will succeed to and assume all of the Company's jurisdictional tariffs, rate schedules and service agreements, as well as all of the Company's franchises, and will provide electric service to the Company's customers without interruption. ELL will also be the successor to the Company with respect to the commitments and authorizations set forth in the various Commission orders and underlying applications, including those relating to such matters as the conduct of the Company's utility business or the sale of utility assets, the Company's transactions with associate companies and its financing transactions (except to the extent otherwise provided in this Application).

Management of ELL and ELP

Under the proposed Articles of Organization and Regulations of Entergy Louisiana, LLC and the proposed Articles of Organization and Regulations of Entergy Louisiana Properties, LLC, ELL and ELP will each be managed under the authority of managers, each of which will be called a Director. Directors will act by majority vote either at a meeting or without a meeting. Holders of ELL Common Units or ELP Common Units, as applicable (as well as holders of ''Preferred Units'' of ELL (as defined below), to the extent provided below) will have the right to vote in the election of Directors and on other matters requiring approval of the members of these entities. The Directors, by majority vote, will elect a president, who will also serve as the chief executive officer, as well as a treasurer, a secretary, one or more vice presidents and other officers.

Proposed Financing Transactions

Financing Transactions of Holdings

As a result of the Merger, Holdings will become a holding company and will register under section 5 of the Act. Section 11(b)(2) of the Act requires that the Commission take action to ensure that ''the corporate structure or continued existence of any company in the holding company system does not unduly complicate the structure or inequitably distribute voting power among security holders.'' Consistent with this requirement, Applicants propose that, subsequent to the Merger, no outside party have an interest in Holdings and that Holdings have no outside security holders, lenders or customers (except as provided above with respect to Holdings' continuing liability as to securities issued or other obligations incurred and outstanding prior to the Merger). To effect this intent, within one year of the Merger effective date, Holdings proposes to redeem or repurchase and retire the preferred stock (''Preferred Stock'') previously issued by the Company, which will remain outstanding after the effective date of the Plans of Conversion and Merger. After the Preferred Stock has been redeemed, Holdings will amend its Articles of Incorporation to eliminate authority to issue Preferred Stock. Additionally, since the Plan of Merger provides that all outstanding short or long-term debt of the Company will be allocated to ELL and ELL will succeed to all of the Company's utility operations, Holdings will have no external debt holders or customers (except with respect to Holdings' continuing liability as to debt securities or customer obligations, which are outstanding prior to the Merger). Also, Entergy will continue to hold all of the outstanding Common Stock of Holdings. Applicants further propose that upon the effective date of the Merger, the Company's existing December 29, 2003 financing order (''Finance Order'') be terminated and that Holdings be authorized to participate in the Money Pool as a lender only, to the extent that it may, from time to time, have surplus funds. Inasmuch as Holdings is to be capitalized exclusively with equity and/or debt provided by Entergy, Holdings proposes to issue and sell equity or debt securities to Entergy from time to time through December 31, 2008 (''Authorization Period''),[6] up to an aggregate amount of $500 million. Any debt securities issued to Entergy under this authorization will be designed to parallel Entergy's effective cost of capital and will have maturities not exceeding 50 years. Entergy also may elect to make capital contributions or non-interest bearing open account advances to Holdings, as authorized under rule 45. Applicants state that in no event will Holdings borrow from Entergy for the purpose of making loans to associate companies under the Money Pool.

ELP Participation in Money Pool

As a result of the Merger, ELP will be formed to own the Plant Sites, the SFI Ownership Interest and the SFI Notes Receivable. Since ELP will not be engaging in any other business operations and is not expected to have any on-going obligations/liabilities other than the payment of taxes, any expenses relating to its ownership of the Plant Sites and routine expenses associated with record-keeping and corporate maintenance requirements, it is anticipated that ELP will have minimal financing needs. To satisfy these financing needs, Applicants request authorization for ELP to participate in the Money Pool as a borrower (as well as a lender), through the Authorization Period, on the same basis as the other participating companies. The aggregate principal amount of ELP's borrowings at any one time outstanding through the Money Pool will not exceed $50 million. Any loans by ELP to other participants through the Money Pool will be made from ELP's available funds. ELP will not borrow funds for the purpose of making loans to associate companies through the Money Pool. Applicants further request that Holdings be authorized to participate in the Money Pool as a lender only.

ELL Financing Transactions

Since ELL will be the successor to the Company's electric utility business, it will require authorization to issue debt and equity securities to provide financing to satisfy its working capital needs and for other general corporate purposes. Applicants state that the financing authorizations requested for ELL herein are substantially similar to the authorizations granted to the Company under the Finance Order. Upon the effective date of the Merger, Applicants request that the Finance Order be terminated and the financing authorizations requested for ELL herein will replace and supercede the authorizations granted under the Finance Order. In addition, as the successor to the Company, ELL proposes to succeed to the Company's existing authorization to issue short-term debt under the Money Pool Order. Specifically, under the Money Pool Order, ELL proposes to be authorized, through Authorization Period, to issue short-term debt, consisting of borrowings under the Money Pool or

Company and the other original Entergy operating companies, EAI, EMI and ENOI. As indicated above, the obligations associated with these services will be allocated to and assumed solely by ELL in its capacity as a customer of SFI.

[5] Under the Plan of Merger, ELL or ELP, as applicable, will reimburse Holdings for any liabilities or defense related expenses that Holdings incurs with respect to the liabilities and obligations, which are allocated to the entity.

[6] Although Applicants request that the Authorization Period be through December 31, 2008, because of the passage of the Energy Policy Act of 2005, which repeals the Act, the Authorization Period will be through February 8, 2006.

one or more credit agreements, the issuance of commercial paper, or other forms of short-term financing, up to an aggregate amount of $225 million. ELL proposes to be authorized to participate as a lender in the Money Pool to the extent of its available funds. Applicants also request authorization for ELL, from time to time through the Authorization Period, to enter into the following financing transactions:

(i) To issue and sell units of preferred membership interests (''Preferred Units'') and, directly or indirectly, through one or more financing subsidiaries (as described below), other forms of preferred or equity-linked securities (''Equity Interests''), up to a combined aggregate amount of $200 million;

(ii) To issue and sell from time to time first mortgage bonds (''First Mortgage Bonds'') and unsecured long-term indebtedness (''Long-term Debt''), in all cases having maturities of up to 50 years in a combined aggregate amount of up to $700 million;

(iii) In connection with the issuance of Equity Interests, to issue Notes (as defined below) to the extent of the related issuance of Equity Interests and Equity Contribution (as defined below);

(iv) To enter into arrangements for the issuance and sale from time to time of tax exempt bonds (''Tax-exempt Bonds''), in an aggregate principal amount of up to $420 million, for the financing or refinancing of certain pollution control facilities and/or solid waste disposal facilities and, in connection with the issuance and sale of these Tax-exempt Bonds, to issue and pledge collateral bonds (first mortgage bonds issued as collateral security for the tax-exempt bonds) (''Collateral Bonds'') in an aggregate principal amount of up to $470 million (this $470 million is not included in the $700 million referenced in (ii) above) and

(v) To acquire the equity securities of one or more Financing Subsidiaries (as defined below) and/or Special Purposes Subsidiaries (as defined below) and/or Partner Subs (as defined below), organized solely to facilitate financing, as discussed below; to guarantee the securities issued by the Financing Subsidiaries and/or Special Purpose Subsidiaries and to have the Financing Subsidiaries and/or Special Purposes Subsidiaries pay ELL, either directly or indirectly, dividends out of capital.

Entergy contemplates that the Preferred Units, Equity Interests, First Mortgage Bonds, Long-term Debt, and Tax-exempt Bonds (including Collateral Bonds, if any) would be issued and sold directly to one or more purchasers in negotiated transactions, or to one or more investment banking or underwriting firms or other entities who would resell these securities without registration under the Securities Act of 1933 (''Securities Act'') in reliance upon one or more applicable exemptions from registration thereunder, or to the public in transactions registered under the Securities Act either through underwriters selected by negotiation or competitive bidding or through selling agents, acting either as agent or as principal, for resale to the public either directly or through dealers.

Preferred Membership Interests and Equity Interests

Applicants propose that ELL issue and sell Preferred Units, as authorized by its proposed regulations.[7] It is anticipated that holders of the Preferred Units will be eligible to vote, together with the holders of the ELL Common Units, for the election of Directors and on other matters requiring approval of the members of ELL. As the sole holder of the ELL Common Units, Holdings will have no less than 75% of the combined voting power of the ELL Common Units and, if applicable, the Preferred Units, and so will have sufficient voting power to elect all Directors of ELL.[8] In addition, as is customary with preferred stock, the holders of the Preferred Units will be entitled to vote as a class on matters that may adversely affect their interests, such as changes in the terms of their Preferred Units, certain mergers and similar matters. In addition to Preferred Units, it is proposed that ELL have the flexibility to issue Equity Interests, directly or indirectly through one or more special purpose finance subsidiaries (including, specifically trust preferred securities), as described below.

Applicants propose that Preferred Units or Equity Interests may be issued in one or more series with rights, preferences and priorities, including those relating to redemption, as may be designed in the instrument creating the series, as determined by ELL's directors or an officer authorized thereby. Preferred Units or Equity Interests may be redeemable or may be perpetual in duration. Distributions on Preferred Units or Equity Interests, each of which may be issued at fixed or floating dividend or distribution rates, will be made periodically and to the extent that funds are legally available for this purpose, but may be made subject to terms which allow the user to defer dividend or distribution payments for specified periods.

First Mortgage Bonds

As previously discussed, under the Plan of Merger, substantially all of the Company's property, rights and obligations prior to the Merger will be allocated to and vested in ELL. This will include the Company's rights and obligations under the Company's Mortgage and Deed of Trust, dated as of April 1, 1944, to The Bank of New York (successor to Bank of Montreal Trust Company and the Chase National Bank of the City of New York) and Stephen J. Giurlando (successor to Mark F. McLaughlin, Z. George Klodnicki and Carl E. Buckley), as Trustees, as amended and supplemented by sixty supplemental indentures (''Supplemental Indentures''), each relating to one or more new series of First Mortgage Bonds (''Mortgage''). ELL may issue First Mortgage Bonds on the basis of unfunded net property additions and/or previously retired bonds as permitted or authorized by the Mortgage, as further supplemented by additional Supplemental Indenture(s).

First Mortgage Bonds: (i) May be subject to optional and/or mandatory redemption, in whole or in part, at par or at premiums above the principal amount thereof; (ii) may be entitled to mandatory or optional sinking fund provisions; (iii) may be issued at fixed or floating rates of interest; (iv) may provide for reset of the coupon pursuant to a remarketing arrangement; (v) may be called from existing investors by a third party; (vi) may be backed by a bond insurance policy and (vii) will have a maturity ranging from one year to 50 years. The maturity dates, interest rates, redemption and sinking fund provisions and conversion features, if any, with respect to First Mortgage Bonds of a particular series, as well as any associated placement, underwriting or selling agent fees, commissions and discounts, if any, will be established by negotiation or competitive bidding (subject, however, in the case of interest rates, to the limits set forth below). In each Supplemental Indenture relating to a series of First Mortgage Bonds, ELL may covenant that, so long as any First Mortgage Bonds of the series remain outstanding, ELL will not pay any cash

[7] The Company, on behalf of ELL, may agree that ELL will sell Preferred Units and other securities prior to its formation, but the consummation of any sale shall be conditioned on the effectiveness of the Merger and of the Commission's authorization requested in this Application.

[8] The grant to the holders of the Preferred Units of the right to vote for Directors may require ELL to deconsolidate from Entergy for federal tax purposes. If ELL deconsolidates, then it will not be a party to the Entergy Corporation and Subsidiary Companies Intercompany Income Tax Consolidation Agreement, dated April 28, 1988, as amended, and Holdings will retain the benefits and obligations of the Agreement.

distributions on ELL Common Units, except from credits to retained earnings, plus a specified amount, plus any additional amounts approved by the Commission. However, ELL may determine not to include any provisions restricting its ability to pay distributions on ELL Common Units.

Long-Term Debt

ELL, directly or through a Financing Subsidiary, may also issue and sell from time to time long-term indebtedness. Long-term Debt of a particular series: (i) Will be unsecured; (ii) may be convertible into any other securities of ELL (except ELL Common Units); (iii) will have a maturity ranging from one year to 50 years; (iv) may be subject to optional and/or mandatory redemption, in whole or in part, at par or at premiums above the principal amount thereof; (v) may be entitled to mandatory or optional sinking fund provisions; (vi) may provide for reset of the coupon pursuant to a remarketing arrangement; (vii) may be issued at fixed or floating rates of interest and (viii) may be called from existing investors by a third party.

The maturity dates, interest rates, redemption and sinking fund provisions and conversion features, if any, with respect to Long-term Debt of a particular series, as well as any associated placement, underwriting or selling agent fees, commissions and discounts, if any, will be established by negotiation or competitive bidding (subject, however, in the case of interest rates, to the limits set forth below).

Tax-Exempt Bonds

Applicants request authorization for ELL to enter into arrangements for the issuance by one or more governmental authorities (each, an ''Issuer'') on behalf of ELL of up to $420 million in aggregate principal amount of Tax-exempt Bonds (and, in connection therewith, authorization is also requested for ELL to issue up to $470 million in aggregate principal amount of ELL Collateral Bonds, which $470 million is not included in the $700 million authorization requested herein for First Mortgage Bonds and Long-term Debt), and it is further proposed that ELL may enter into one or more leases, subleases, installment sale agreements or other agreements and/or supplements and/or amendments thereto (collectively, the ''Facilities Agreement''), or to enter into one or more refunding agreements and possible supplements and/or amendments thereto (collectively, the ''Refunding Agreement'') with the respective Issuer(s) that will contemplate the issuance and sale by the Issuer(s) of one or more series of Tax-exempt Bonds in an aggregate principal amount of up to $420 million under one or more trust indentures and/or supplements thereto (individually and collectively, the ''Indenture'') between the Issuer(s) and one or more trustees. Under the terms of each Facilities Agreement and/or each Refunding Agreement, ELL will be obligated to make payments sufficient to provide for payment by the Issuer(s) of the principal or redemption price of, premium (if any) and interest on, and other amounts owing with respect to the Tax-exempt Bonds, together with related expenses.

The proceeds of the sale of Tax-exempt Bonds will be applied to financing, or refinancing tax-exempt bonds issued for the purpose of financing, certain ELL pollution control facilities and/or sewage or solid waste disposal facilities. Under the terms of each Facilities Agreement, ELL will agree to purchase, acquire, construct and install the facilities unless the facilities are already in operation. In addition, under the terms of the Facilities Agreement, the respective Issuer(s) may acquire by purchase from ELL the subject pollution control and/or sewage or solid waste disposal facilities that ELL will then repurchase from the Issuer(s).

The Tax-exempt Bonds of a particular series: (i) Will have a maturity ranging from one year to 40 years; (ii) may be subject to optional and/or mandatory redemption, in whole or in part, at par or at premiums above the principal amount thereof; (iii) may be entitled to mandatory or optional sinking fund provisions; (iv) may provide for reset of the coupon pursuant to a remarketing arrangement; (v) may be issued at fixed or floating rates of interest; (vi) may be called from existing investors by a third party; (vii) may be backed by a municipal bond insurance policy; (viii) may be supported by credit support such as a bank letter of credit and reimbursement agreement; (ix) may be supported by a lien subordinate to the Mortgage on the facilities related to the Tax-exempt Bonds and (x) may be supported by the issuance and pledge of Collateral Bonds.

The maturity dates, interest rates, redemption and sinking fund provisions and conversion features, if any, with respect to Tax-exempt Bonds of a particular series, as well as any associated placement, underwriting or selling agent fees, commissions and discounts, if any, will be established by negotiation or competitive bidding (subject, however, in the case of interest rates, to the limits set forth below).

Dividend/Distribution and Interest Rate Parameters

Dividends/distributions and interest rates on the equity or debt securities proposed to be issued by ELL will be subject to certain limits. The dividend or distribution rate on any series of Preferred Units and Equity Interests or the interest rate on First Mortgage Bonds, Long-term Debt, Tax-exempt Bonds (including Collateral Bonds, if any) will not exceed, at the time of issuance, a rate that is consistent with similar securities of comparable credit quality and maturities issued by other companies, but in no event will: (i) The dividend/distribution rate (in the case of any equity securities issued at a fixed rate) exceed 500 basis points over the yield to maturity of a U.S. Treasury Security having a remaining term comparable to the term of the series; (ii) the interest rate (in the case of any debt securities issued at a fixed rate) exceed 500 basis points (or 400 basis points with respect to Tax-exempt Bonds and any related Collateral Bonds) over U.S. Treasury Securities having a remaining term comparable to the term of the securities or (iii) the dividend/distribution or interest rate exceed 500 basis points over the London Interbank Offering Rate (''LIBOR'') (or 400 basis points over LIBOR with respect to Tax-exempt Bonds or any related Collateral Bonds) for the relevant dividend/distribution or interest rate period in the case of any equity or debt securities issued at a floating rate.

In connection with the issuance of Equity Interests, Applicants request authorization for ELL to acquire, directly or indirectly, the equity securities of one or more Financing Subsidiaries and/or Special Purpose Subsidiaries and/or Partner Subs. These entities would be organized specifically for the purpose of facilitating the issuance of the Equity Interests, which would be reported by ELL on its financial statements or the footnotes relating thereto. Entergy represents that sufficient internal controls will be put in place of ELL to enable it to monitor the creation and use of any of these entities. Applicants further represent that no Financing Subsidiary or Special Purpose Subsidiary shall acquire or dispose of, directly or indirectly, any interest in any ''utility asset,'' as that term is defined under the Act.

Applicants propose that ELL acquire all of the outstanding shares of common stock or other equity interests of one or more Financing Subsidiaries (''Financing Subsidiaries''). In connection with the issuance of Equity Interests, ELL may enter into one or

more guarantee or other credit support agreements in favor of a Financing Subsidiary. Any Financing Subsidiary or Special Purpose Subsidiary organized by ELL under the authority granted by the Commission in this proceeding will be organized only if, in management's opinion, the creation and utilization of the Financing Subsidiary or Special Purpose Subsidiary, will likely result in tax savings, increased financial flexibility, increased access to capital markets and/or lower cost of capital for ELL.

Additionally, in connection with the issuance of certain types of Equity Interests, ELL and/or a Financing Subsidiary may organize one or more separate special purpose subsidiaries (''Special Purpose Subsidiaries'') as any one or any combination of: (i) A limited liability company under the Limited Liability Company Act (''LLC Act'') of the State of Delaware or other jurisdiction considered advantageous by ELL; (ii) a limited partnership under the Revised Uniform Limited Partnership Act of the State of Delaware or other jurisdiction considered advantageous by ELL; (iii) a business trust under the Business Trust Act of the State of Delaware or other jurisdiction considered advantageous by ELL or (iv) any other domestic entity or structure that is considered advantageous by ELL. In the event that any Special Purpose Subsidiary is organized as a limited liability company, ELL or a Financing Subsidiary may also organize a second special purpose wholly owned subsidiary under the General Corporation Law of the State of Delaware or other jurisdiction (''Partner Sub'') for the purpose of acquiring and holding Special Purpose Subsidiary membership interests in order to comply with any requirement under the applicable law that a limited liability company have at least two members. In the event that any Special Purpose Subsidiary is organized as a limited partnership, ELL or a Financing Subsidiary also may organize a Partner Sub for the purpose of acting as the general partner of the Special Purpose Subsidiary and may acquire, either directly or indirectly through the Partner Sub, a limited partnership interest in the Special Purpose Subsidiary to ensure that the Special Purpose Subsidiary will have a limited partner to the extent required by applicable law.

ELL, a Financing Subsidiary and/or a Partner Sub will acquire all of the common stock or all of the general partnership or other common equity interests, as the case may be, of any Special Purpose Subsidiary for an amount not less than the minimum required by any applicable law (*i.e.*, the aggregate of the equity accounts of the Special Purpose Subsidiary) (the aggregate of the investment by ELL, a Financing Subsidiary and/or a Partner Sub being referred to herein as the ''Equity Contribution''). ELL and/or a Financing Subsidiary may issue and sell to any Special Purpose Subsidiary, at any time or from time to time in one or more series, unsecured subordinated debentures, unsecured promissory notes or other unsecured debt instruments (''Notes'') governed by an indenture or other document, and the Special Purpose Subsidiary will apply both the Equity Contribution made to it and the proceeds from the sale of Equity Interests by it from time to time to purchase Notes. Alternatively, ELL and/or a Financing Subsidiary may enter into a loan agreement or agreements with any Special Purpose Subsidiary under which the Special Purpose Subsidiary will loan to ELL and/or a Financing Subsidiary both the Equity Contribution to the Special Purpose Subsidiary and the proceeds from the sale of Equity Interests by the Special Purpose Subsidiary, from time to time, and ELL and/or the Financing Subsidiary will issue to the Special Purpose Subsidiary Notes evidencing the borrowings. The Financing Subsidiary or the Special Purpose Subsidiary will then transfer (directly or indirectly) the proceeds to ELL resulting in its payment of dividends out of capital to ELL. The terms (*e.g.*, interest rate, maturity, amortization, prepayment terms, default provisions, etc.) of any Notes would generally be designed to parallel the terms of the Equity Interests to which the Notes relate (the maximum principal amount of such Notes will not exceed the aggregate of the related Equity Contribution and Equity Interests).

ELL or any Financing Subsidiary also proposes to guarantee solely in connection with the issuance of Equity Interests by a Special Purpose Subsidiary: (i) Payment of dividends or distributions on such securities by the Special Purpose Subsidiary if and to the extent such Special Purpose Subsidiary has funds legally available therefore; (ii) payments to the holders of such securities due upon liquidation of such Special Purpose Subsidiary or redemption of the Equity Interests of such Special Purpose Subsidiary and (iii) certain additional amounts that may be payable in respect of such Equity Interests. Alternatively, ELL may provide credit support for any guarantee that is provided by a Financing Subsidiary.

In the event of any voluntary or involuntary liquidation, dissolution or winding up of any Special Purpose Subsidiary, the holders of Equity Interests issued by a Special Purpose Subsidiary will be entitled to receive, out of the assets of the Special Purpose Subsidiary available for distribution to its shareholders, partners or other owners (as the case may be), an amount equal to the par or stated value or liquidation preference to the Equity Interests plus any accrued and unpaid dividends or distributions.

The constituent instruments of each Special Purpose Subsidiary will provide, among other things, that the Special Purpose Subsidiary's activities will be limited to the issuance and sale of Equity Interests from time to time and the lending to a Financing Subsidiary or Partner Sub of the proceeds thereof and the Equity Contribution to the Special Purpose Subsidiary, and certain other related activities.

The amount of any Equity Interests issued by any Finance Subsidiary shall be counted against the $200 limitation on the amount of Preferred Units and Equity Interests that ELL may issue directly, as set forth in this Application or in any other application-declaration that may be filed in the future, to the extent that ELL guarantees the securities.

Use of Proceeds

The proceeds to be received by Holdings, ELP and ELL from the financings authorized by the Commission, under this Application-Declaration, will be used for general corporate purposes, including (i) the financing of working capital requirements, (ii) financing, in part, investments by Holdings in ELP and ELL and (iii) the repayment, redemption, refunding or purchase by ELL of its securities.

Additional Representations

Entergy and the Company make the following additional representations:

(i) At all times during the Authorization Period, Entergy, Holdings and ELL will each maintain common equity of at least 30% of its consolidated capitalization (based upon the financial statements filed with the most recent Quarterly Report on Form 10–Q or Annual Report on Form 10–K or, with respect to Holdings and ELL, prior to the availability of these financial statements, based on the pro forma balance sheets, attached hereto as Exhibit FS 9). The term ''consolidated capitalization'' is defined to include,

where applicable, all common equity (comprised of common stock or Common Units, additional paid-in capital, retained earnings, treasury stock and/or minority interests), Preferred Stock or Preferred Units, preferred securities, equity linked securities, Long-term debt, short-term debt and current maturities.[9]

(ii) With respect to the securities issuance authority proposed in this Application on behalf of ELL: (a) Within four business days after the occurrence of a Ratings Event,[10] Applicants will notify the Commission of its occurrence (by means of a letter, via fax, e-mail or overnight mail to the Office of Public Utility Regulation) and (b) within 30 days after the occurrence of a Ratings Event, Applicants will submit a post-effective amendment to this Application explaining the material facts and circumstances relating to that Ratings Event (including the basis on which, taking into account the interests of investors, consumers and the public as well as other applicable criteria under the Act, it remains appropriate for ELL to issue the securities for which authorization has been requested in this Application, so long as ELL continues to comply with the other applicable terms and conditions specified in the Commission's order authorizing the transactions requested in this Application). Furthermore, no securities authorized as a result of this Application will be issued following the 60th day after a Ratings Event by ELL if the downgraded rating(s) has or have not been upgraded to investment grade. Applicants request that the Commission reserve jurisdiction through the remainder of the Authorization Period over the issuance of any securities that ELL is prohibited from issuing as a result of the occurrence of a Ratings Event if no revised rating reflecting an investment grade rating has been issued.

Distributions Out of Capital

As a result of the proposed restructuring, substantially all of the assets of the Company will be allocated to ELL and the retained earnings of ELP will effectively be set to zero. ELP, therefore, may need to pay distributions to Holdings, its immediate parent company, out of capital. Accordingly, the Applicants request authorization for ELP to pay distributions out of capital, to the extent not otherwise authorized under the Act.

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

Jill M. Peterson,

Assistant Secretary.

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BILLING CODE 8010–01–P

[9] Applicants state that the consequence of Entergy, Holdings or ELL failing to satisfy the 30% common equity to consolidated capitalization condition is that the applicable company would not be authorized to issue securities in a transaction subject to Commission approval, except for securities which would result in an increase in the common equity percentage.

[10] A ''Ratings Event'' will occur, with respect to securities proposed to be issued by ELL if (i) the security to be issued by ELL, pursuant to the authority sought in this Application-Declaration, upon original issuance, is rated below investment grade; (ii) any outstanding security of ELL that is rated is downgraded below investment grade or (iii) any outstanding security of Entergy that is rated is downgraded below investment grade. For purposes of this provision, a security will be deemed to be rated ''investment grade'' if it is rated investment grade by at least one nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of rule 15c3–1 under the Securities Exchange Act of 1934.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52474; File No. SR–CBOE–2005–72]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Marketing Fee Assessed on Options on DIAMONDS (''DIA'')

September 20, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 1, 2005, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On September 7, 2005, the CBOE submitted Amendment No. 1 to the proposed rule change.[3] The CBOE has designated this proposal as one changing a fee imposed by the CBOE under Section 19(b)(3)(A)(ii) of the Act[4] and Rule 19b–4(f)(2) thereunder,[5] which renders the proposal, as amended, effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange revised the proposed rule change to insert rule text that is contained in CBOE's Fees Schedules but was omitted from the initial filing.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its marketing fee program to assess the marketing fee on options on DIAMONDS® (''DIA''). The fee would be imposed at the rate of $.22 per contract. The Exchange will assess a marketing fee on DIA options commencing on September 2, 2005.

Below is the text of the proposed rule change, as amended. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

CHICAGO BOARD OPTIONS EXCHANGE, INC.

FEES SCHEDULE

[August 24, 2005] September 1, 2005

1. No Change.

2. [Market-Maker, RMM, e-DPM & DPM] Marketing Fee [(in option classes in which a DPM has been appointed)] (6) (16)

3–4. No Change.

Footnotes:

(1)–(5) No Change.

(6) The Marketing Fee will be assessed only on transactions of Market-Makers, RMMs, e-DPMs, [and] DPMs*, and LMMs* at the rate of $.22 per contract on all classes of equity options, options on HOLDRs, [and] options on SPDRs*, and options on DIA*. The fee will not apply to Market-Maker-to-Market-Maker transactions. This fee shall not apply to index options and options on ETFs (other than options on SPDRs *and options on DIA*). Should any surplus of the marketing fees at the end of each month occur, the Exchange would then refund such surplus at the end of the month, if any, on a pro rata basis based upon contributions made by the Market-Makers, RMMs, e-DPMs, [and] DPMs*, and LMMs*.

(7)–(16) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared