

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27803]

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

February 20, 2004.

Notice is hereby given that the following filings 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 March 16, 2004, 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 March 16, 2004, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### Northeast Utilities, et al. (70-10177)

Northeast Utilities ("NU"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered public-utility holding company under the Act, NU's wholly owned nonutility subsidiary, NU Enterprises, Inc. ("NUEI"), and NUEI's wholly owned subsidiary, Select Energy, Inc. ("Select"), both located at 107 Selden Street, Berlin, Connecticut 06037 (collectively with NU and NUEI, "Applicants"), have filed an application-declaration ("Application") under sections 6(a), 7, 9(a), 10, 12(b) and (c), 32 and 33 of the Act and rules 43, 45, 46, 53 and 54.

NU, NUEI and Select propose that the Commission authorize:

(1) NU and NUEI to invest, either directly or indirectly, up to \$500 million in excess of the amount permitted to be invested under rule 58 in "energy-

related companies," through June 30, 2007 (the "Authorization Period");

(2) NU and NUEI to guarantee, indemnify and otherwise provide credit support ("Guarantees") of up to \$750 million ("Guarantee Limit") of the debt or obligations of NU's nonutility subsidiaries or affiliates (including Select and any nonutility subsidiary or affiliate that may be formed or acquired during the Authorization Period) ("Nonutility Subsidiaries"), through the Authorization Period;

(3) Select to (a) engage in energy marketing and trading anywhere in the world, subject to the Commission's reservation of jurisdiction on the provision of such services outside of the United States, Mexico and Canada, and (b) render energy management services and consulting services anywhere in the world;

(4) NU, under rule 53(c), to invest in exempt wholesale generators, as defined in section 32 of the Act ("EWGs"), in an aggregate amount (which includes the amount of NU's current EWG investment of \$449 million) not exceeding a total of \$1 billion ("EWG Investment Limit"), through the Authorization Period; and

(5) NU and NUEI to sell or to cause any subsidiary to sell or otherwise transfer (a) its nonutility businesses, (b) the securities of current subsidiaries engaged in some or all of these nonutility businesses or (c) nonutility investments which do not involve a subsidiary (*i.e.*, less than 10% voting interest), in each case to a different subsidiary, and to acquire the assets of such businesses, subsidiaries or other then-existing investment interests, through the Authorization Period.

NU and NUEI<sup>1</sup> seek Commission authorization to invest an additional

<sup>1</sup> NU, a Massachusetts business trust, NUEI and Select are part of the Northeast Utilities system of companies (the "NU System"). NU is the parent and is not itself an operating company. The NU System provides franchised retail electric service in Connecticut, New Hampshire and western Massachusetts through three of NU's wholly owned subsidiaries (The Connecticut Light and Power Company ("CL&P"), Public Service Company of New Hampshire ("PSNH") and Western Massachusetts Electric Company ("WMECO" and collectively with CL&P and PSNH, the "NU Utility Companies"). The NU Utility Companies, together, also provide wholesale electric service to various municipalities and other utilities throughout the northeast United States. In addition, NU owns Holyoke Water Power Company ("HWP"), a utility for purposes of the Act. HWP owns a 147 megawatt coal-fired plant in Holyoke, Massachusetts, and sells all of the output of its generation assets indirectly to Select under a wholesale contract. NU is also the parent of Yankee Energy System, Inc. ("YES"), an exempt gas utility holding company. YES is primarily engaged in the retail distribution of natural gas through its wholly owned subsidiary, Yankee Gas Services Company ("Yankee Gas"), a Connecticut retail gas distribution company, and also has several nonutility subsidiaries.

amount, of up to \$500 million, in excess of the amount permitted the Applicants currently under rule 58 in currently existing and new "energy-related companies," as defined in rule 58, through the Authorization Period, as discussed further below. The Applicants anticipate that the investments will include securities acquisitions, open account advances and the issuance of Guarantees.

NU's need to increase its ability to invest in its rule 58 companies is driven primarily by the expanded activity of Select.<sup>2</sup> NU states that it, like many utilities during the industry restructuring which has evolved in the United States, has divested most of its generating assets and increased its focus on the marketing and brokering of energy and related services. Moreover, energy marketing and brokering activities have become an integral part of NU's business and its strategy for competing in the restructured energy industry, as shown in the increasing revenues of, and NU's investment in, Select.<sup>3</sup> NU anticipates that, as its

NUEI acts as the holding company for NU's unregulated businesses. NUEI has numerous direct and indirect nonutility subsidiaries, including, along with Select, Northeast Generation Company ("NGC") (currently the NU System's only EWG), Mode 1 Communications, Inc. and Woods Network Services, Inc., (both exempt telecommunications companies, as defined in section 34 of the Act), Select Energy Services, Inc. (formerly, HEC Inc.) (a nonutility subsidiary whose securities NUEI acquired pursuant to Commission authorization (see Holding Co. Act Release No. 26939, Nov. 12, 1998)) and other "energy-related companies," as defined in rule 58 (such as Northeast Generation Services Company and E.S. Boulos Company).

<sup>2</sup> Select, a Connecticut corporation, began active operation under rule 58 in 1998. Applicants state that, since that time, Select has engaged in brokering and marketing of energy commodities, including electricity and natural gas, and sale of energy-related products and services as permitted under rule 58(b)(1)(iv) and (v). It engages in a wide variety of wholesale and retail transactions and is licensed in approximately 11 states to do energy brokering and marketing. Select has contracts with major utilities to provide standard offer service for such utilities' customers. In connection with electric industry restructuring and the introduction of competition, Select has become a major part of NU's business as its revenues have grown from approximately \$29 million in 1998 to approximately \$2.5 billion in 2003. Select has become a major participant in energy marketing and brokering in the northeast. Late in 2001, Select acquired the securities of Niagara Mohawk Energy Marketing, Inc., another energy marketing and brokering company in upstate New York, pursuant to rule 58, and renamed it Select Energy New York, Inc. ("SENY").

<sup>3</sup> Applicants state that NU's competitive businesses (including rule 58 energy-related businesses) have grown significantly since the formation of Select in 1998 (with revenues exceeding \$2.5 billion in 2003) and, as of September 30, 2003, NU's investment in rule 58 companies aggregated to approximately \$943 million (against a rule 58 limitation for NU of approximately \$1.01 billion). A large portion of the

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energy marketing and brokering business continues to grow, it will find it necessary to make additional investments in its energy-related companies of up to \$500 million. For this reason, under sections 9 and 10 of the Act, NU is seeking authorization to invest up to an additional \$500 million in new and existing rule 58 energy-related companies through the Authorization Period, including Guarantees. NU and NUEI also request that, at the end of the proposed Authorization Period, any investments made in those companies, in excess of the rule 58 limit, be permitted to continue when any unused portion must expire.<sup>4</sup>

Secondly, Applicants now seek an order authorizing the issuance of guarantees up to an aggregate amount of \$750 million for their nonutility subsidiaries and affiliates, including any Nonutility Subsidiaries that may be formed or acquired during the Authorization Period. Through June 30, 2004, the Commission authorized NU and NUEI to, among other things, issue guarantees and similar forms of credits support or enhancements for NU and NUEI's Nonutility Subsidiaries in an aggregate amount not to exceed \$500 million by its order dated September 30, 2003. Holding Co. Act Release No. 27730 (Sept. 30, 2003). The authorization sought, and described above, to invest in rule 58 energy-related companies, under section 9 and 10 of the Act, and this authorization for NU and NUEI to provide credit support to its competitive affiliates up to the Guarantee Limit will enable NU to grow its competitive businesses as appropriate and necessary to continue to compete with other energy marketing companies.

NU also seeks authority for Select to engage in a variety of activities related to its energy marketing and brokering business, including: (i) The brokering, marketing and trading of other energy commodities, including gas and electric transmission entitlements, weather hedging products, emission credits and financial derivative products (*i.e.*,

"paper products") in respect of any of these commodities (including, but not limited to, hedges, swaps, forwards, options and the like), anywhere in the world, but request the Commission to reserve jurisdiction on the provision of such services outside of the United States, Mexico and Canada, and (ii) the rendering of energy management services and demand-side management services anywhere in the world.

NU also requests authorization to increase the aggregate amount it may invest in EWGs to up to \$1.0 billion during the Authorization Period (an amount that would include NU's current investment of \$449 million in its only EWG). The Commission previously has authorized NU's investment in EWGs in an amount in excess of the 50% safe harbor limit provided by rule 53, by order dated March 7, 2000 ("March 7, 2000 Order"). Holding Co. Act Release No. 27148 (Mar. 7, 2000). NU states that the ownership of additional generation, on satisfactory terms, is important to support NUEI's energy trading and marketing business. NU further states that the proposed EWG investment limit represents approximately 125% of NU's average "consolidated retained earnings" as defined in rule 53(a)(1), for the four quarterly periods ending September 30, 2003, and that the proposed investment limit of \$1 billion compares favorably with the EWG investment limits authorized by the Commission.<sup>5</sup>

Finally, NU seeks authority to engage in internal corporate reorganizations to better organize its Nonutility Subsidiaries and investments. NU currently engages, directly or indirectly through its Nonutility Subsidiaries, in certain nonutility businesses. No authority is sought to make new investments or to change the organization for the Utility Subsidiaries. "Utility Subsidiary" for the purposes of this section means the NU Utility Companies and Yankee Gas. NU requests approval to consolidate or otherwise reorganize all or any part of its direct and indirect ownership interests in Nonutility Subsidiaries, and the activities and functions related to these investments.<sup>6</sup> The internal

transactions would be undertaken to eliminate corporate complexities, to combine related business segments for staffing and management purposes, to eliminate administrative costs, to achieve tax savings, or for other ordinary and necessary business purposes. NU requests authority to engage in such transactions through the Authorization Period. The transactions proposed will not involve the sale, transfer or other disposition of any utility assets of any Utility Subsidiary to any other person, nor will they involve any change in the corporate ownership of, or involve any restructuring of, the Utility Subsidiaries.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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**BILLING CODE 8010-01-P**

## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

**DATES:** Submit comments on or before April 27, 2004.

**ADDRESSES:** Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to George Solomon, Supervisory Business Development Officer, Office of Business and Community Initiatives, Small Business Administration, 409 3rd Street SW., Suite 6100, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** George Solomon, Supervisory Business

investment is in the form of NU Guarantees (\$258 million). As of September 30, 2003, NU's investment in Select and SENY, including Guarantees, computed for purposes of rule 58, aggregate to approximately \$846 million of NU's aggregate investment in rule 58 companies of \$943 million. Of that amount, Guarantees issued for NU's nonutility subsidiaries made up approximately \$258 million with guarantees for Select and SENY accounting for \$184.5 million.

<sup>4</sup> Applicants state that no authorization is sought for off-balance sheet financing nor are any of the Applicants currently involved in such financing. Furthermore, Select does not own or deal in off balance sheet assets or exercise control over any assets that are not fully disclosed.

<sup>5</sup> The proposed aggregate EWG investment would be equal to approximately 125% of NU's average consolidated retained earnings for the four quarters ended September 30, 2003. The proposal would be an increase from the current authorization of approximately 83%. See March 7, 2000, Order.

<sup>6</sup> Applicants state that, to effect any consolidations or other reorganizations, NU or NUEI may either contribute the equity securities of one Nonutility Subsidiary to another Nonutility Subsidiary or sell (or cause a Nonutility Subsidiary to sell) the equity securities or all or part of the assets of one Nonutility Subsidiary to another one.

The transactions may also take the form of a Nonutility Subsidiary selling or transferring the equity securities of a subsidiary or all or part of such subsidiary's assets as a dividend to another Nonutility Subsidiary, and the acquisition, directly or indirectly, of the equity securities or assets of the subsidiary, either by purchase or by receipt of a dividend. The purchasing Nonutility Subsidiary in any transaction structured as an intrasystem sale of equity securities or assets may execute and deliver its promissory note evidencing all or a portion of the consideration given.