

production property, plant and equipment.

Supply, an interstate pipeline company, transports and stores natural gas for Distribution and for other utilities, pipelines, marketers and large industrial customers in the northeastern United States. Supply owns and operates a 2,900-mile pipeline network that extends generally from southwestern Pennsylvania to the U.S.-Canadian border at Niagara Falls. It is regulated by the Federal Energy Regulatory Commission as a natural gas company under the Natural Gas Act of 1938.

Empire, an intrastate pipeline company, transports natural gas for Distribution and for other utilities, large industrial customers and power producers in New York State. The company owns a 157-mile pipeline that extends generally from the U.S.-Canadian border at the Chippawa Channel of the Niagara River near Buffalo, N.Y. to near Syracuse, N.Y., and is regulated by the New York Public Service Commission.

Seneca is engaged in the business of exploration and development of natural gas and oil producing reserves in California, in the Appalachian region of the United States, in Wyoming and in the Gulf Coast region of Texas and Louisiana. In addition, Seneca conducts exploration and production operations through subsidiaries in the provinces of Manitoba, Alberta, Saskatchewan and British Columbia in Canada.

Resources markets natural gas to approximately 22,000 industrial, commercial and residential customers under long-term agreements, and provides other related energy services to those end-use customers. Upstate Energy engages through subsidiaries in gas marketing and related activities, and is a "gas-related company" within the meaning of rule 58. Neither Resources nor Upstate Energy owns or operates facilities for the distribution of gas at retail or for the generation, transmission or distribution of electricity for sale.

B. Existing Authority

By order dated December 16, 1999 (HCAR No. 27114, "December 1999 Order"), the Commission authorized National Fuel Gas, through Supply, Resources, Seneca and Upstate, to acquire the equity and debt securities of one or more companies that are engaged in or are formed to engage in certain categories of non-utility gas-related operations outside the United States ("Foreign Energy Affiliates"). Specifically, the Commission authorized National and the Nonutility Subsidiaries (except as described below) to invest up

to \$300 million through December 31, 2003 in the securities of Foreign Energy Affiliates, and authorized Resources and Upstate Energy to engage directly in marketing and brokering and related activities in Canada.²

By order dated December 27, 2000 (HCAR No. 27320, "December 2000 Order"), the Commission modified the December 1999 Order to authorize National Fuel Gas to invest up to an aggregate amount of \$800 million (from \$300 million) in Foreign Energy Affiliates.

II. Requests for Authority

Applicants now request authority for National Fuel Gas to acquire directly, or indirectly through the Nonutility Subsidiaries, one or more newly organized direct subsidiaries of National Fuel Gas or one or more subsidiaries of the Nonutility Subsidiaries ("Intermediate Subsidiaries"), the securities of or other interests in Foreign Energy Affiliates through December 31, 2006 ("Authorization Period"). The aggregate amount invested by National Fuel Gas and its subsidiaries in Foreign Energy Affiliates would not exceed \$800 million. Applicants state that, generally, the operations of Foreign Energy Affiliates would be substantially similar to those that the Nonutility Subsidiaries are now directly engaged in within the United States.

Applicants request authority for Resources and Upstate to engage directly in marketing and brokering and related activities in Canada.

Applicants request authority during the Authorization Period for the Nonutility Subsidiaries, Intermediate Subsidiaries, and Foreign Energy Affiliates to: (1) Pay dividends out of capital and unearned surplus; and (2) retire or reacquire any securities that have been issued to an associate company.

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

Jill M. Peterson,
Assistant Secretary.

[FR Doc. 03-28335 Filed 11-10-03; 8:45 am]

BILLING CODE 8010-01-P

² The Commission reserved jurisdiction, pending completion of the record, over: (1) Investments by Seneca in Foreign Energy Affiliates that are engaged in exploration and production activities outside of the United States and Canada; (2) any investment by Supply in a Foreign Energy Affiliate; (3) direct energy commodity marketing and brokering by Resources and Upstate Energy outside the United States and Canada; and (4) investments by Resources and Upstate Energy in Foreign Energy Affiliates that are engaged in Energy Commodity marketing and brokering activities outside of the United States and Canada.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48745; File Nos. SR-NYSE-2002-33, SR-NASD-2002-77, SR-NASD-2002-80, SR-NASD-2002-138, SR-NASD-2002-139, and SR-NASD-2002-141]

Self-Regulatory Organizations; New York Stock Exchange, Inc. and National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Changes (SR-NYSE-2002-33 and SR-NASD-2002-141) and Amendments No. 1 Thereto; Order Approving Proposed Rule Changes (SR-NASD-2002-77, SR-NASD-2002-80, SR-NASD-2002-138 and SR-NASD-2002-139) and Amendments No. 1 to SR-NASD-2002-80 and SR-NASD-2002-139; and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 to SR-NYSE-2002-33, Amendment Nos. 2, 3, 4 and 5 to SR-NASD-2002-141, Amendment Nos. 2 and 3 to SR-NASD-2002-80, Amendment Nos. 1, 2, and 3 to SR-NASD-2002-138, and Amendment No. 2 to SR-NASD-2002-139, Relating to Corporate Governance

November 4, 2003.

I. Introduction

On August 16, 2002, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change (SR-NYSE-2002-33) to amend its Listed Company Manual ("NYSE Manual") to implement significant changes to its listing standards that are aimed to ensure the independence of directors of listed companies and to strengthen corporate governance practices of listed companies ("NYSE Corporate Governance Proposal"). On April 4, 2003, the NYSE submitted Amendment No. 1 to the NYSE Corporate Governance Proposal.³ On April 17, 2003, the proposed rule change, as amended by NYSE Amendment No. 1, was published for comment in the *Federal Register*.⁴ The

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated April 3, 2003 ("NYSE Amendment No. 1"). NYSE Amendment No. 1 replaced the original filing in its entirety. Telephone call between Annemarie Tierney, Office of General Counsel, NYSE, and Jennifer Lewis, Special Counsel, Division, Commission, on April 9, 2003.

⁴ See Securities Exchange Act Release No. 47672 (April 11, 2003), 68 FR 19051 ("NYSE Notice").