

purchaser; or (iv) directly to employees (or to trusts established for their benefit), and shareholders. Applicants request that issuances of common stock under KeySpan's employee benefit plans and stock purchase and dividend reinvestment plans not count towards the Long-Term Financing Limit, but that these securities be limited to 13 million shares as described below in V.A.1.(c).

Applicants state that if underwriters are used in the sale of the securities, the securities would be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The securities may be offered to the public either through underwriting syndicates (which may be represented by a managing underwriter or underwriters designated by KeySpan) or directly by one or more underwriters acting alone. Applicants state that the securities may be sold directly by KeySpan or through agents designated by KeySpan from time to time and that if dealers are utilized in the sale of any of the securities, KeySpan would sell the securities to the dealers as principals. Any dealer may then resell these securities to the public at varying prices to be determined by the dealer at the time of resale. The aggregate price of the common stock being sold through any underwriter or dealer shall be calculated based on either the specified selling price to the public or the closing price of the common stock on the day the offering is announced. Applicants state that if common stock is being sold in an underwritten offering, KeySpan may grant the underwriters an over-allotment option permitting the purchase from KeySpan of additional shares at the same price then being offered solely for the purpose of covering over-allotments.

Applicants state that public distributions may be through private negotiation with underwriters, dealers or agents as discussed above or effected through competitive bidding among underwriters. In addition, Applicants request that sales be made through private placements or other non-public offerings to one or more persons. Applicants state that these common stock sales would be with terms and conditions, at rates or prices and under conditions negotiated or based upon, or otherwise determined by, competitive capital markets.

#### (b) Acquisitions

Applicants also request that KeySpan be authorized to issue common stock to third parties in consideration for the

acquisition by KeySpan or a Nonutility Subsidiary of equity or debt securities of a company being acquired through a Commission order, applicable rule, or exemption under the Act. Applicants state that the KeySpan common stock to be exchanged in this type of transaction may be purchased on the open market under rule 42, or may be original issue.<sup>4</sup>

#### (c) Direct Stock Purchase and Other Employee Benefit Plans

Applicants propose, from time to time during the Authorization Period, for KeySpan to issue and/or acquire in open market transactions, or by some other method which complies with applicable law and Commission interpretations then in effect, up to 13 million shares of KeySpan common stock ("Benefit Plan Limit") under KeySpan's current or any future direct stock purchase and dividend reinvestment plan, certain incentive compensation plans, and certain other employee benefit plans. Applicants propose that any shares of common stock acquired by KeySpan on the open market during the Authorization Period under a rule 42 exemption, that were originally issued under the Benefit Plan Limit shall no longer count against the Benefit Plan Limit until the shares are reissued.

#### 2. Preferred Stock and Preferred and Equity-Linked Securities

Applicants request that KeySpan issue preferred stock in addition to preferred securities and or equity-linked securities up to the Long-Term Security Limit. Applicants request authority for KeySpan to issue preferred stock, preferred securities including trust preferred securities, convertible preferred securities, such as, debt or preferred securities that are convertible or exchangeable, either mandatorily or at the option of the holder, into common stock of KeySpan, common stock of the Subsidiaries, KeySpan indebtedness, or forward purchase contracts for common stock.

Applicants state that preferred or equity-linked securities may be issued in one or more series with rights, preferences, and priorities as may be designated in the instrument creating each series. Dividends or distributions on preferred or equity-linked securities will be made periodically and to the extent funds are legally available for this purpose, but may be made subject to terms that allow the issuer to defer dividend payments or distributions for

<sup>4</sup> Applicants state that this common stock may be registered under the Securities Act of 1933, as amended ("1933 Act"), or if the common stock is not registered, then it would be subject to resale restrictions under Rule 144 under the 1933 Act.

specified periods. Applicants state that preferred or equity-linked securities may be convertible or exchangeable into shares of common stock or other indebtedness and may be issued in the form of shares or units. Applicants request that the conversion of equity-linked securities and the subsequent issuance of other securities as a direct result of the conversion (or the performance of forward purchase contracts), to the extent that no additional financing proceeds are realized, would not be counted against the Long-Term Financing Limit.<sup>5</sup> Applicants state that preferred stock and preferred or equity linked securities may be sold directly or indirectly through underwriters or dealers in connection with an acquisition similar to that described for common stock, above.

#### 3. Long-Term Debt

Applicants request that KeySpan issue unsecured, long-term debt securities subject to the Long-Term Financing Limit through the Authorization Period. At June 30, 2003, KeySpan had approximately \$4.9 billion of long-term debt obligations outstanding. Long-term debt securities may be comprised of bonds, notes, medium-term notes, debentures, or similar unsecured securities under one or more indentures ("KeySpan Indenture") or long-term indebtedness under agreements with banks or other institutional lenders. Any long-term debt security would have such designation, aggregate principal amount, maturity, interest rate(s) or methods of determining the same, terms of payment of interest, redemption provisions, sinking fund terms, terms for conversion into any other security of KeySpan or the Subsidiaries and other terms and conditions as KeySpan may determine at the time of issuance.

Applicants state that the maturity dates, interest rates, redemption and sinking fund provisions, tender or repurchase and conversion features, if

<sup>5</sup> Applicants state, for example, that in May 2002, KeySpan completed an offering of 9.2 million publicly traded equity-linked securities units. The aggregate offering price was \$460 million. Each unit consists of a 6-year term, 8.75% senior unsecured note with a principal amount of \$50, and a forward stock purchase contract to purchase \$460 million of KeySpan common stock (based on a range of prices between \$35.30 and \$42.36) in May 2005. Applicants state that both the issuance of the note and the forward stock purchase contract portion (including the execution thereof) of the equity-linked units were issued and accounted for under KeySpan's Prior Financing Orders. Applicants state that because of the above, the conversion of the forward stock purchase contracts into KeySpan common stock in May 2005 shall not be counted against the \$3.0 billion Long-Term Financing Limit.