

Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: January 14, 2003.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27639]

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

January 15, 2003.

Notice is hereby given that the following filing(s) has/have been made with the Commission under 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 February 7, 2003, 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 February 7, 2003 the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### SCANA Corporation, et al. (70-10087)

SCANA Corporation ("SCANA"), a registered holding company, SCANA's three public-utility subsidiary companies, South Carolina Electric & Gas Company ("SCE&G"), Public Service Company of North Carolina ("PSNC"), South Carolina Generating Company, Inc. ("GENCO"), and SCANA's nonutility subsidiary companies, SCANA Services, Inc. ("SCANA Services"), SCANA Energy

Marketing, Inc., SCANA Resources, Inc., South Carolina Fuel Company, Inc. ("Fuel Company"), South Carolina Pipeline Corporation, SCG Pipeline, Inc., SCANA Energy Trading, LLC, SCANA Public Service Company, LLC, SCANA Communications, Inc., ServiceCare, Inc., Primesouth, Inc., Palmark, Inc., SCANA Development Corporation, SCANA Services, Inc., PSNC Blue Ridge Corporation, PSNC Cardial Pipeline Company and Clean Energy Enterprises Inc. (collectively, the "Applicants"), each located at 1426 Main Street, Columbia, South Carolina 29201 filed an application-declaration ("Application") under sections 6(a), 7, 9(a), 10, 12(b), and 12(c) of the Act and rules 43, 45, 46, 53, and 54, and under the Act.<sup>1</sup>

Applicants request authority to engage in a variety of financing transactions, credit support arrangements, and other related proposals, as more fully discussed below, commencing on the effective date of an order issued under this filing and ending April 15, 2006 ("Authorization Period").

#### I. General Terms and Conditions

Financing by each Applicant will be subject to the following limitations ("Financing Parameters"): (i) The effective cost of capital on debt and preferred or equity-linked financings will not exceed competitive market rates available at the time of issuance for securities having the same or reasonably similar terms and conditions issued by similar companies of reasonably comparable credit quality, provided that in no event will the effective cost of capital on (a) long-term debt borrowings exceed 500 basis points over the comparable term U.S. Treasury securities and (b) short-term debt borrowings exceed 500 basis points over the comparable term London Interbank Offered Rate ("LIBOR"); (ii) the maturity of indebtedness will not exceed 50 years, and, preferred stock or preferred or equity-linked securities (other than perpetual preferred stock) will be redeemed no later than 50 years after the issuance thereof, unless converted into common stock; and (iii) the underwriting fees, commissions or other similar remuneration paid in connection with the non-competitive issue, sale or

distribution of securities under this Application will not exceed the greater of (a) 5% of the principal or total amount of the securities being issued or (b) issuance expenses that are generally paid at the time of the pricing for sales of the particular issuance, having the same or reasonably similar terms and conditions issued by similar companies of reasonably comparable credit quality.

Applicants represent that at all times during the Authorization Period, SCANA and each Utility Subsidiary will each maintain common equity (as reflected in the most recent 10-K or 10-Q filed with the Commission under the Securities and Exchange Act of 1934, as amended, ("1934 Act") adjusted to reflect changes in capitalization since the balance sheet date therein) of at least 30% of its consolidated capitalization (common equity, preferred stock, long-term and short-term debt), provided that SCANA will, in any event, be authorized to issue common stock (including under the dividend reinvestment or employment plans described below), to the extent authorized in this filing.

Applicants further represent that, at the time of any security issuance under the authority sought below, the rating of any security issued (or the rating of the same class of security) shall be at least 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 1934 Act. If such issuance is of a type of security that is unrated, the issuer shall have a corporate or senior unsecured debt rating of at least investment grade. Applicants propose that the ratings test will not apply to any issuance of common stock or to issuances of indebtedness by GENCO.<sup>2</sup>

#### II. Background and Current Proposal

By order dated February 14, 2000,<sup>3</sup> the Commission authorized (as supplemented and amended in subsequent Commission orders, collectively, the "Financing Orders"),<sup>4</sup> SCANA, the Utility Subsidiaries and the Nonutility Subsidiaries to, among other

<sup>2</sup> According to Applicants, GENCO does not currently have any rated securities outstanding and is not expected to have a security rating during the Authorization Period. Applicants state that, if GENCO receives a security rating during the Authorization Period, the previously outlined ratings test will also apply to any issuance by GENCO.

<sup>3</sup> Holding Co. Act Release Nos. 27135 and 27137.

<sup>4</sup> The Commission issued supplemental orders increasing various financing limitations until February 11, 2003. See Holding Co. Act Release No. 27341 (Jan. 31, 2001) and Holding Co. Act Release No. 27476 (Dec. 19, 2001).

<sup>1</sup> SCANA directly owns all of the issued and outstanding common stock of three public utility companies, PSNC, SCE&G, and GENCO, (collectively referred to as the "Utility Subsidiaries"). All of SCANA's direct and indirect subsidiaries, other than the Utility Subsidiaries, are referred to as the "Nonutility Subsidiaries." The Utility Subsidiaries and Nonutility Subsidiaries are collectively referred to as the "Subsidiaries."

things, engage in: (i) External issuances by SCANA of common stock, long-term debt, short-term debt, and other securities for cash; (ii) the entering into by SCANA of transactions to manage interest rate risk ("hedging transactions"); (iii) issuances of debt securities (including commercial paper) and the entering into of hedging transactions by the Utility Subsidiaries; (iv) issuances by Nonutility Subsidiaries of debt securities which are not exempt under rule 52 of the Act; (v) the establishment of a utility money pool (the "Utility Money Pool") and a nonutility money pool (the "Nonutility Money Pool"); (vi) the issuance of intrasystem guarantees by SCANA and the Nonutility Subsidiaries on behalf of Subsidiaries; (vii) the ability of wholly-owned Subsidiaries to alter their capital stock in order to engage in financing transactions with their parent company and to engage in a reverse stock split to reduce franchise taxes, subject, in the case of Utility Subsidiaries, to the approval of, if required, the applicable state commission; (viii) the ability of PSNC to pay dividends out of capital or unearned surplus; (ix) the formation of financing entities and the issuance by such entities of securities otherwise authorized to be issued and sold under the Financing Orders; and (x) the ability of SCANA to keep outstanding advances in favor of certain of its Subsidiaries in an amount of approximately \$600 million following the acquisition of PSNC and, indirectly, of PSNC's subsidiaries ("Merger").<sup>5</sup>

Further, by order dated June 9, 2000 ("Plan Order"),<sup>6</sup> the Commission authorized SCANA to: (i) Grant awards of stock options, stock appreciation rights, restricted stock, performance shares and performance units under its long-term equity compensation plan, (ii) issue under such plan up to five million shares of its common stock through June 8, 2003, and (iii) solicit proxies with respect to such plan at SCANA's 2000 annual meeting of shareholders. Applicants state that the authority sought in the Application will replace and substitute for all the authority granted by the Financing Orders with respect to financing activities and will also replace and substitute for the authority granted by the Plan Order with respect to issuance of shares of common stock for benefit plans described in the Application.

Specifically, Applicants seek authority for the transactions discussed below and request authority to engage in

the transactions in the Application during the period from the effective date of the order in this proceeding through the Authorization Period. Also, Applicants state that the proceeds from the sale of securities in external financing transactions will be used for general corporate purposes including: (i) The financing, in part, of the capital expenditures of the SCANA system; (ii) the financing of working capital requirements of the SCANA system; (iii) the acquisition, retirement or redemption under rule 42 of securities previously issued by SCANA or its Subsidiaries or as otherwise authorized by the Commission; (iv) direct or indirect investment in companies authorized under the Act or by Commission rule (including exempt wholesale generators ("EWGs") or foreign utility companies ("FUCOs") or in a separate proceeding; and (v) other lawful purposes. Applicants represent that no such financing proceeds will be used to acquire a new subsidiary unless such financing is consummated in accordance with an order of the Commission or an available exemption under the Act. The aggregate amount of proceeds of financings and guarantees used to fund investments in EWGs and FUCOs will not, when added to SCANA's "aggregate investment" in these entities at any point in time, exceed 50% of SCANA's "consolidated retained earnings" as defined in rule 53(a)(1).

### III. SCANA External Financing

SCANA requests authority to obtain funds externally through sales of common stock, preferred stock, preferred and equity-linked securities, long-term debt and short-term debt securities. With respect to common stock, SCANA also requests authority to issue common stock to third parties in consideration for the acquisition by SCANA or a Nonutility Subsidiary of equity or debt securities of a company being acquired under an exemption under the Act or under Commission authority. In addition, SCANA seeks the flexibility to enter into certain hedging transactions to manage interest rate risk.

#### A. Common Stock

Applicants propose that the aggregate amount of financing obtained by SCANA during the Authorization Period from issuance and sale of common stock, no par value (other than for employee benefit plans or stock purchase and dividend reinvestment plans), when combined with issuances of preferred stock, preferred and equity-linked securities and long-term debt, as described in this section, and other than

for refunding or replacement of securities where capitalization is not increased as a result thereof, shall not exceed \$2.2 billion for the uses outlined in Part II, above.<sup>7</sup>

SCANA requests authority to sell common stock covered by the Application in any one of the following ways: (i) Through underwriters or dealers; (ii) through agents; (iii) directly to a limited number of purchasers or a single purchaser; or (iv) directly to employees (or to trusts established for their benefit), shareholders and others. Issuances of common stock under SCANA's employee benefit plans and stock purchase and dividend reinvestment plans will not count towards this limitation. If underwriters are used in the sale of the securities, such securities will 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 SCANA) or directly by one or more underwriters acting alone. The securities may be sold directly by SCANA or through agents designated by SCANA from time to time. If dealers are utilized in the sale of any of the securities, SCANA will sell such securities to the dealers as principals. Any dealer may then resell such securities to the public at varying prices to be determined by such dealer at the time of resale. If common stock is being sold in an underwritten offering, SCANA may grant the underwriters a "green shoe" option permitting the purchase from SCANA at the same price of additional shares then being offered solely for the purpose of covering over-allotments.

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

<sup>7</sup> Applicants state that this request represents a decrease of \$250 million from the authority granted in the Financing Orders reflecting lower anticipated capital requirements for SCANA.

<sup>5</sup> See Holding Co. Act Release No. 27133 (February 9, 2000) ("Merger Order").

<sup>6</sup> See Holding Co. Act Release No. 27183.

Under the terms of the Act and orders of the Commission, including the Merger Order, SCANA states that it is authorized to acquire securities of companies engaged in energy-related consumer services, "energy-related businesses" as described in rule 58, exempt telecommunications companies ("ETCs"), as defined in section 34 of the Act, EWGs and FUCOs. Historically, similar acquisitions have occasionally involved the exchange of parent company stock for securities of the company being acquired in order to provide the seller with certain tax advantages. These transactions are individually negotiated. According to Applicants, the SCANA common stock to be exchanged may be purchased on the open market under rule 42, or may be original issue. Original issue stock may be registered under the Securities Act of 1933, as amended (the "1933 Act"), but at present it is expected that the common stock would not be registered and the common stock acquired by the third parties would be subject to resale restrictions under rule 144 under the 1933 Act.

#### *B. Preferred Stock and Preferred and Equity-linked Securities*

SCANA requests Commission authority during the Authorization Period to issue preferred stock (subject to approval by shareholders of the necessary amendment to the Articles of Incorporation) and to issue directly or indirectly through one or more Financing Subsidiaries preferred securities (including, specifically, trust preferred securities) or equity-linked securities (including, specifically, debt or preferred securities that are convertible, either mandatory or at the option of the holder, into common stock or SCANA indebtedness and forward purchase contracts for common stock). The aggregate amount of financing obtained by SCANA during the Authorization Period from issuance and sale of preferred stock and preferred and equity-linked securities, when combined with issuances of common stock (other than for employee benefit plans or stock purchase and dividend reinvestment plans) and long-term debt, as described below, and other than for refunding or replacement of securities where capitalization is not increased from that in place at June 30, 2002, shall not exceed \$2.2 billion.

According to Applicants, preferred stock and preferred 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.

#### *C. Long-Term Debt*

SCANA requests Commission authority during the Authorization Period to issue long-term debt securities in an aggregate principal amount outstanding at any time which, when combined with issuances of common stock (other than for benefit plans or stock purchase and dividend reinvestment plans), preferred stock, and preferred and equity-linked securities, as described above, and other than for refunding or replacement of securities where capitalization is not increased, shall not exceed \$2.2 billion.

Long-term debt securities may be comprised of bonds, notes, medium-term notes or debentures under one or more indentures (the "SCANA 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 SCANA and other terms and conditions as SCANA 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 any, with respect to the long-term securities 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.

Borrowings from banks and other financial institutions may be unsecured and pari passu with debt securities issued under the SCANA Indenture and the short-term credit facilities (as described below). Applicants state that specific terms of any borrowings will continue to be determined by SCANA at the time of issuance and will comply in all regards with the parameters on financing authority in the Application.

#### *D. Short-Term Debt*

SCANA requests authority to have outstanding at any one time during the Authorization Period, up to \$500 million of short-term debt, which may include institutional borrowings, commercial paper or bid notes (all as described below) and short-term debt issued under the SCANA Indenture or otherwise. This request represents an increase of \$50 million over the authority previously granted in the Financing Orders. The authority for short-term debt is in addition to the \$2.2

billion requested for common stock, preferred stock and preferred and equity-linked securities and long-term debt as described above.

SCANA requests authority to sell commercial paper, from time to time, in established domestic commercial paper markets. Such commercial paper would be sold to dealers at the discount rate or the coupon rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally. Applicants expect that the dealers acquiring commercial paper from SCANA will reoffer such paper at a discount to corporate and institutional investors. Institutional investors are expected to include commercial banks, insurance companies, pension funds, investment trusts, foundations, colleges and universities and finance companies.

SCANA further requests authority to, without counting against the \$500 million limit, maintain back-up lines of credit in connection with a commercial paper program in an aggregate amount not to exceed the amount of authorized commercial paper.

Credit lines may be set up for use by SCANA for general corporate purposes in addition to credit lines to support commercial paper as described in this subsection. SCANA will borrow and repay under such lines of credit, from time to time, as it is deemed appropriate or necessary.

#### *E. Financing Risk Management Devices*

SCANA requests authority to enter into, perform, purchase and sell financial instruments intended to reduce or manage the volatility of interest rates, including but not limited to interest rate swaps, caps, floors, collars and forward agreements. Hedges may also include issuance of structured notes (*i.e.*, a debt instrument in which the principal and/or interest payments are indirectly linked to the value of an underlying asset or index), or transactions involving the purchase or sale, including short sales, of U.S. Treasury or U.S. governmental agency (*e.g.*, Federal National Mortgage Association) obligations or LIBOR based swap instruments (collectively referred to as "Hedge Instruments"). Applicants contend that the transactions would be for fixed periods and stated notional amounts. SCANA would employ interest rate derivatives as a means of prudently managing the risk associated with any of its outstanding debt issued under this authority or an applicable exemption by, in effect, synthetically (i) converting variable rate debt to fixed rate debt, (ii) converting fixed rate debt

to variable rate debt and (iii) limiting the impact of changes in interest rates resulting from variable rate debt. In no case will the notional principal amount of any interest rate swap exceed the greater of the face value of the underlying debt instrument or the present market value of the underlying debt instrument and related interest rate exposure. Transactions will be entered into for a fixed or determinable period. Thus, SCANA will not engage in speculative transactions unassociated with its existing outstanding debt and financing needs and activities. SCANA will only enter into agreements with counterparties ("Approved Counterparties") whose senior debt ratings, as published by a national recognized rating agency, are greater than or equal to "BBB," or an equivalent rating.

In addition, SCANA requests authority to enter into interest rate hedging transactions with respect to anticipated debt offerings (the "Anticipatory Hedges"), subject to certain limitations and restrictions. Such Anticipatory Hedges would only be entered into with Approved Counterparties, and would be utilized to fix and/or limit the interest rate risk associated with any new issuance through (i) a forward sale of exchange-traded Hedge Instruments (a "Forward Sale"), (ii) the purchase of put options on Hedge Instruments (a "Put Options Purchase"), (iii) a Put Options Purchase in combination with the sale of call options Hedge Instruments (a "Zero Cost Collar"), (iv) transactions involving the purchase or sale, including short sales, of Hedge Instruments, or (v) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to, structured notes, caps and collars, appropriate for the Anticipatory Hedges. Anticipatory Hedges may be executed on-exchange ("On-Exchange Trades") with brokers through the opening of futures and/or options positions traded on the Chicago Board of Trade ("CBOT"), the opening of over-the-counter positions with one or more counterparties ("Off-Exchange Trades"), or a combination of On-Exchange Trades and Off-Exchange Trades. SCANA or the appropriate Subsidiary will determine the optimal structure of each Anticipatory Hedge transaction at the time of execution. SCANA or the appropriate Subsidiary may decide to lock in interest rates and/or limit its exposure to interest rate increases.

SCANA states that it will comply with Statement of Financial Accounting Standards ("SFAS") 133 ("Accounting

for Derivative Instruments and Hedging Activities"), SFAS 138 ("Accounting for Certain Derivative Instruments and Certain Hedging Activities") or such other standards relating to accounting for derivative transactions as are adopted and implemented by the FASB. Applicants commit that the Hedge Instruments and Anticipatory Hedges will qualify for hedge accounting treatment under the current FASB standards in effect and as determined at the date such Hedge Instruments or Anticipatory Hedges are entered into.

#### IV. Utility Subsidiary Financing

Applicants state that the financings by the Utility Subsidiaries for which authority is requested in the Application are outside the rule 52 exemption. Each Utility Subsidiary requests authority to issue securities not exempt under rule 52 for refunding or replacement of securities where its capitalization is not increased from that in place.

##### A. SCE&G and PSNC Short-Term Debt

SCE&G requests authority to issue short-term debt, including commercial paper and credit lines, in the aggregate amount of \$450 million to be outstanding at any one time during the Authorization Period. Authority is requested for PSNC to issue short-term debt, including commercial paper and credit lines, in the aggregate amount of \$300 million to be outstanding at any one time during the Authorization Period. These requests represent an increase of \$150 million and \$100, respectively, over the authority granted in the Financing Orders with respect to SCE&G and PSNC.

SCE&G and PSNC request authority to sell commercial paper, from time to time, in established domestic commercial paper markets in a manner similar to SCANA as discussed above. SCE&G and PSNC may, without counting against the limit set forth above, further maintain back up lines of credit in an aggregate amount not to exceed the amount of authorized commercial paper. Credit lines may be set up for use by SCE&G and PSNC for general corporate purposes in addition to credit lines to support commercial paper as described in this subsection. SCE&G and PSNC will borrow and repay under such lines of credit, from time to time, as it is deemed appropriate or necessary. Subject to the limitations described above, SCE&G and PSNC may engage in other types of short-term financings as it may deem appropriate in light of its needs and market conditions at the time of issuance.

##### B. PSNC Long-Term Debt

PSNC requests authority to issue up to \$300 million in long-term debt securities during the Authorization Period. This request represents a decrease of \$150 million from the authority granted in the Financing Orders.

##### C. GENCO Long-Term Debt

GENCO requests authority to issue up to \$100 million in long-term debt securities during the Authorization Period. SCANA expects to make additional exempt capital contributions to GENCO under rule 45. In addition thereto, authority is requested for GENCO to issue debt obligations to effectuate the refunding (including reasonable costs and redemption premiums incurred in connection with such refunding) of its now or hereafter outstanding debt obligations including pollution control loan obligations to achieve lower costs of money, extend maturity or for other proper corporate purposes. At June 30, 2002, GENCO had \$77.4 million of long-term debt obligations outstanding. The amounts issued under this authority will not count against the financing limit described above provided for in the Application to the extent they will exclusively constitute refunding transactions that will not increase total capitalization of GENCO.

##### D. Financing Risk Management Devices

To the extent not exempt under rule 52, the Utility Subsidiaries also request authority to enter into interest rate risk management transactions (hedge instruments) and Anticipatory Hedges of the same type and under the same conditions as are requested above by SCANA.

#### V. Guarantees, Intrasystem Advances and Intrasystem Money Pool

##### A. Guarantees and Intrasystem Advances

SCANA requests continued authority to enter into guarantees, obtain letters of credit, enter into expense agreements or otherwise provide credit support with respect to the obligations of its Subsidiaries ("Guarantees") as may be appropriate or necessary to enable such Subsidiaries to carry on in the ordinary course of their respective businesses, in an aggregate principal amount not to exceed \$600 million outstanding at any one time (not taking into account obligations exempt under rule 45) ("Guarantee Limitation"). Included in this amount are guarantees and other credit support mechanisms by SCANA in favor of its Subsidiaries which were

previously issued. This request represents an increase of \$295 million over the authority granted in the Financing Orders, reflecting increased business activity and additional requirements of SCANA's counterparties. SCANA may charge each Subsidiary a fee for each Guarantee provided on its behalf that is not more than that obtainable by the beneficiary of the Guarantee from third parties. Any Guarantees outstanding at the end of the Authorization Period will continue until expiration or termination in accordance with their terms.

Applicants also request authority for the Nonutility Subsidiaries to enter into guarantees, obtain letters of credit, enter into expense agreements and otherwise provide credit support with respect to other Nonutility Subsidiaries, in an aggregate principal amount not to exceed \$250 million outstanding at any one time, in addition to guarantees that are exempt under rule 52. The Nonutility Subsidiary providing any such credit support may charge its associate company a fee for each guarantee provided on its behalf determined in the same manner as specified above for SCANA's Guarantees.

Furthermore, Applicants request authority for the Utility Subsidiaries to enter into guarantees, obtain letters of credit, enter into expense agreements and otherwise provide credit support with respect to their direct and indirect subsidiaries, in an aggregate principal amount not to exceed \$250 million outstanding at any one time in addition to guarantees that are exempt under rule 52. The Utility Subsidiary providing any such credit support may charge its associate company a fee for each guarantee provided on its behalf determined in the same manner as specified above.

Applicants state that certain Guarantees may be in support of the obligations of Subsidiaries which are subject to varying quantification. In such cases, SCANA would determine the exposure under such Guarantee for purposes of measuring compliance with the Guarantee Limitation by appropriate means, including estimation of exposure based on loss experience or projected potential payment amounts. If appropriate, such estimates will be made in accordance with Generally Accepted Accounting Principles ("GAAP"). Such estimation would be reevaluated periodically.

SCANA also requests authority to keep in place advances to its Subsidiaries in an aggregate amount outstanding at any one time of up to \$1.25 million. The interest rate used is

the weighted average rate on SCANA's long-term and short-term debt. Such outstanding advances by SCANA to its Subsidiaries are open advances with no maturities and are callable by SCANA at any time.

#### *B. Authorization and Operation of the Money Pools*

SCANA and the Utility Subsidiaries request authority, through the Authorization Period, to continue the Utility Money Pool established under the authority granted in the Financing Orders, and the Utility Subsidiaries, to the extent not exempted by rule 52, also request authority to continue to make, from time to time, unsecured short-term borrowings from the Utility Money Pool and to contribute surplus funds to the Utility Money Pool and to lend and extend credit to (and acquire promissory notes from) one another through the Utility Money Pool. In addition to the Utility Subsidiaries, SCANA requests that Fuel Company be allowed to continue participating in the Utility Money Pool as a result of its financing relationship with SCE&G. For purposes of discussing the Utility Money Pool, the term Utility Subsidiaries shall include Fuel Company.

In addition, SCANA and the Nonutility Subsidiaries (other than Fuel Company),<sup>8</sup> request authority to continue the Nonutility Money Pool. Funds made available by SCANA for loans through the money pools are made available first for loans through the Utility Money Pool (to the extent being operated) and thereafter for loans through the Nonutility Money Pool.

SCANA requests authority to contribute surplus funds and to lend and extend credit to (a) the Utility Subsidiaries through the Utility Money Pool and (b) the Nonutility Subsidiaries through the Nonutility Money Pool. Applicants believe that the cost of the proposed borrowings through the two Money Pools will continue to generally be more favorable to the borrowing participants than the comparable cost of external short-term borrowings, and the yield to the participants contributing available funds to the two Money Pools will generally be higher than the typical yield on short-term investments.

According to Applicants, the Utility Money Pool is currently not operated. A

<sup>8</sup> *I.e.*, South Carolina Pipeline Corporation; SCG Pipeline, Inc.; SCANA Energy Marketing, Inc.; SCANA Energy Trading, LLC; SCANA Public Service Company, LLC; SCANA Communications, Inc.; ServiceCare, Inc.; Primesouth, Inc.; Palmark, Inc.; SCANA Resources, Inc.; SCANA Development Corporation; SCANA Petroleum Resources, Inc.; SCANA Services, Inc.; PSNC Blue Ridge Corporation; PSNC Cardinal Pipeline Company; and Clean Energy Enterprises Inc.

separate Nonutility Money Pool is in existence amongst SCANA and certain Nonutility Subsidiaries. Each of the Nonutility Subsidiaries (other than Fuel Company) that is an Applicant requests authority to participate in the Nonutility Money Pool. The Nonutility Money Pool is operated on the same terms and conditions as set forth for the Utility Money Pool, except that SCANA funds made available to the Money Pools will be made available to the Utility Money Pool first (to the extent it is operated) and thereafter to the Nonutility Money Pool. No loans through the Nonutility Money Pool are made to, and no borrowings through the Nonutility Money Pool are made by, SCANA. Fuel Company does not participate in the Nonutility Money Pool as it is anticipated to participate in the Utility Money Pool.

SCANA and the Utility Subsidiaries may contribute funds from the issuance of short-term debt as authorized above to the Utility Money Pool. SCANA and the Nonutility Subsidiaries may contribute funds from the issuance of short-term debt to the Nonutility Money Pool.

SCANA Services under the authority of the appropriate officers of the participating companies will continue to handle the operation of the Utility and Nonutility Money Pools, including record keeping and coordination of loans. SCANA Services administers the Utility and Nonutility Money Pools on an "at cost" basis and maintains separate records for each money pool. Surplus funds of the Utility Money Pool and the Nonutility Money Pool may be combined in common short-term investments, but separate records of such funds are maintained by SCANA Services as administrator of the pools, and interest thereon is separately allocated, on a daily basis, to each money pool in accordance with the proportion that the amount of each money pool's surplus funds bears to the total amount of surplus funds available for investment from both money pools.

Proceeds of borrowings from the money pools may be used for the purposes set forth in the Financing Parameters. SCE&G, PSNC and GENCO may borrow up to \$60 million, \$30 million, and \$50 million, respectively, at any one time outstanding from the Utility Money Pool. Each of these amounts is twice the amount of the authority granted in the Financing Orders. Applicants state that borrowings by Fuel Company under the Utility Money Pool are exempt under rule 52 under the Act and that borrowings under the Utility Money Pool are in addition to the authority for other

financings for which authority is sought in the Application.

#### **VI. Direct Stock Purchase and Dividend Reinvestment Plan, Incentive Compensation Plans and Other Employee Benefit Plans**

SCANA proposes, from time to time during the Authorization Period, 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 10 million shares of SCANA common stock under SCANA's direct stock purchase and dividend reinvestment plan, certain incentive compensation plans and certain other employee benefit plans described in the Application. Under the Financing Orders and the Plan Order SCANA had authority to issue 15 million shares with respect to employment plans through February 11, 2003.

#### **VII. Payment of Dividends Out of Capital or Unearned Surplus by Nonutility Subsidiaries**

Applicants request authority for the Nonutility Subsidiaries to pay dividends, from time to time, out of capital and unearned surplus (including revaluation reserve), to the extent permitted under applicable corporate law. Without further approval of the Commission, no Nonutility Subsidiary will declare or pay any dividend out of capital or unearned surplus if that Nonutility Subsidiary derives any material part of its revenues from sales of goods, services, electricity or natural gas to any of the Utility Subsidiaries.

#### **VIII. Development and Administrative Activities**

In connection with future investments in EWGs, FUCOs and in subsidiaries permitted under rule 58 ("Rule 58 Subsidiaries"), SCANA requests authority to engage directly and through Subsidiaries in preliminary development activities ("Development Activities") and administrative and management activities ("Administrative Activities") associated with such investments.<sup>9</sup> Development Activities and Administrative Activities include preliminary activities designed to result in a permitted Nonutility investment such as an investment in an EWG or FUCO under the authority requested in the Application; however, such preliminary activities may not qualify for such status until the project is more fully developed.

<sup>9</sup>Intermediate Subsidiaries may also engage in Development Activities and Administrative Activities.

Development Activities will be limited to due diligence and design review; market studies; preliminary engineering; site inspection; preparation of bid proposals, including, in connection therewith, posting of bid bonds; application for required permits and/or regulatory approvals; acquisition of site options and options on other necessary rights; negotiation and execution of contractual commitments with owners of existing facilities, equipment vendors, construction firms, power purchasers, thermal "hosts," fuel suppliers and other project contractors; negotiation of financing commitments with lenders and other third-party investors; and such other preliminary activities as may be required in connection with the purchase, acquisition or construction of facilities or the securities of other companies. Applicants state that Development Activities will be designed to eventually result in a permitted nonutility investment.

SCANA proposes to expend directly or through Subsidiaries up to \$200 million in the aggregate outstanding at any time during the Authorization Period on all such Development Activities.<sup>10</sup> To the extent a Subsidiary for which such amounts were expended for Development Activities becomes an EWG, FUCO, or Rule 58 Subsidiary, the amount so expended will cease to be Development Activities and then be considered as part of the "aggregate investment" in such entity. In the case of EWGs, FUCOs and Rule 58 Subsidiaries, such aggregate investment will then count against the limitation on such aggregate investment under rule 53 or rule 58.

#### **IX. Intermediate Subsidiaries**

SCANA proposes to create and acquire directly or indirectly the securities of one or more Intermediate Subsidiaries which may be corporations, trusts, partnerships, limited liability companies or other entities. Intermediate Subsidiaries will be organized exclusively for the purpose of acquiring and holding the securities of, or financing or facilitating SCANA's investments in, other direct or indirect nonutility investments.

An Intermediate Subsidiary may be organized, among other things: (1) In order to facilitate the making of bids or proposals to develop or acquire an interest in any EWG, FUCO, ETC, or other nonutility company which, upon

acquisition, would qualify as a Rule 58 Subsidiary; (2) after the award of such a bid proposal, in order to facilitate closing on the purchase or financing of such acquired company; (3) at any time subsequent to the consummation of an acquisition of an interest in any such company in order, among other things, to effect an adjustment in the respective ownership interests in such business held by the SCANA system and non-affiliated investors; (4) to facilitate the sale of ownership interests in one or more acquired Rule 58 Subsidiary, EWG or FUCO; (5) to comply with applicable laws of foreign jurisdictions limiting or otherwise relating to the ownership of domestic companies by foreign nationals; (6) as a part of tax planning in order to limit SCANA's exposure to U.S. and foreign taxes; (7) to further insulate SCANA and the Utility Subsidiaries from operational or other business risks that may be associated with investments in Nonutility companies; or (8) for other lawful business purposes.

Investments in Intermediate Subsidiaries may take the form of any combination of the following: (1) Purchases of capital shares, partnership interests, member interests in limited liability companies, trust certificates or other forms of voting or non-voting equity interests; (2) capital contributions; (3) open account advances without interest; (4) loans; and (5) guarantees issued, provided or arranged in respect of the securities or other obligations of any Intermediate Subsidiaries.

Funds for any direct or indirect investment in any Intermediate Subsidiary will be derived from SCANA's available funds. To the extent that SCANA provides funds directly or indirectly to an Intermediate Subsidiary which are used for the purpose of making an investment in any EWG or FUCO or a Rule 58 Subsidiary, the amount of such funds will be included in SCANA's "aggregate investment" in such entities, as calculated (in the case of EWGs, FUCOs and Rule 58 Subsidiaries) in accordance with rule 53 or rule 58, as applicable.<sup>11</sup>

Applicants state that the authority requested for Intermediate Subsidiaries is intended to allow for the corporate structuring alternatives outlined in the Application and will not allow any increase in aggregate investment in EWGs, FUCOs, Rule 58 Subsidiaries, or

<sup>10</sup> Applicants state that expenditures in EWGs, FUCOs and in Rule 58 Subsidiaries which count against the "aggregate investment" limitation of rule 53 or rule 58, would not count against the \$200 million limitation.

<sup>11</sup> If the Intermediate Subsidiary is merely a conduit, the aggregate investment will not "double count" both the conduit investment and the investment in the operating company authorized as an EWG, FUCO, Rule 58 subsidiary or other approved investment.

any other business subject to an investment limitation under the Act.

#### X. Internal Reorganization of Existing Investments

SCANA currently engages directly or through Subsidiaries in certain nonutility businesses. SCANA seeks authority to engage in internal corporate reorganizations to better organize such Subsidiaries and investments. No authority is sought to make new investments or to change the organization of the Utility Subsidiaries.

SCANA and Subsidiaries request authority, to the extent needed, to sell or to cause any Subsidiary to sell or otherwise transfer (i) such businesses, (ii) the securities of current Subsidiaries engaged in some or all of these businesses or (iii) investments which do not involve a Subsidiary (*i.e.* less than 10% voting interest) to a different Subsidiary, and, to the extent approval is required, the Subsidiaries request authority to acquire the assets of such businesses, Subsidiaries or other then existing investment interests. Alternatively, transfers of such securities or assets may be effected by share exchanges, share distributions or dividends followed by contribution of such securities or assets to the receiving entity. In the future, following its direct or indirect acquisition of the securities of new Nonutility Subsidiaries, SCANA may determine to transfer such securities or the assets of such Nonutility Subsidiaries to other Subsidiaries as described in the preceding sentence. SCANA may also liquidate or merge Nonutility Subsidiaries.

Applicants state that such internal transactions would be undertaken in order 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.

Applicants state that the transactions proposed will not involve the sale or other disposition of any utility assets of the Utility Subsidiaries and will not involve any change in the corporate ownership of the Utility Subsidiaries. In so far the approval sought does not extend to the acquisitions of any new businesses or activities.

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

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 03-1344 Filed 1-21-03; 8:45 am]

**BILLING CODE 8010-01-U**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** [To be published].

**STATUS:** Open Meeting.

**PLACE:** 450 Fifth Street, NW., Washington, DC.

**ANNOUNCEMENT OF OPEN MEETING:** Additional Meeting.

An additional Open Meeting will be held on Thursday, January 23, 2003 at 10 a.m., in Room 1C30, the William O. Douglas Room. The Closed Meeting previously announced to be held on Thursday, January 23, 2003 at 10 a.m. has been scheduled to immediately follow the Open Meeting on Thursday, January 23, 2003.

Commissioner Goldschmid, as duty officer, determined that not earlier notice thereof was possible.

The following items previously announced for the January 22, 2003 Open Meeting will be considered during the January 23, 2003 Open Meeting.

1. The Commission will consider adopting rules to establish standards of professional conduct for attorneys who appear and practice before the Commission in any way in the representation of issuers. As proposed, the rules would require an attorney to report evidence of a material violation of securities laws, a material breach of fiduciary duty, or similar material violation by the issuer or by any officer, director, employee, or agent of the issuer to the issuer's chief legal officer or the chief executive officer of the company (or the equivalents); if they do not respond appropriately to the evidence, the rule would require the attorney to report the evidence to the issuer's audit committee, another committee of independent directors, or the full board of directors; if the directors do not respond appropriately, the rule would require or permit the attorney to withdraw and notify the Commission of the withdrawal.

2. The Commission will consider whether to adopt amendments to its registration and reporting forms for registered management investment companies, as well as new rule 30b1-4 and new form N-PX under the Investment Company Act of 1940. These rules would require mutual funds and other registered management investment companies to disclose the policies and procedures that they use to determine how to vote proxies relating to portfolio securities. They would also require registered management investment companies to file with the Commission

on an annual basis, and make available to shareholders, their proxy voting records.

3. The Commission will consider whether to adopt a new rule and amendments to its recordkeeping rules for registered investment advisers under the Investment Advisers Act. The new rule would require investment advisers to adopt proxy voting policies and procedures, describe the policies and procedures to clients and provide clients with copies on request, and disclose how clients can obtain information about how the adviser voted their proxies. The recordkeeping amendments would require advisers to keep certain records regarding client proxies.

At times, changes in Commission priorities 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) 942-7070.

Dated: January 16, 2003.

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. 03-1492 Filed 1-17-03; 2:21 pm]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47186; File No. SR-BSE-2002-15]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Boston Stock Exchange, Inc., Establishing Trading Rules for the Boston Options Exchange Facility

January 14, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 31, 2002, the Boston Stock Exchange, Inc. ("BSE" 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 December 18, 2002, the BSE filed Amendment No. 1 that entirely replaced the original rule filing.<sup>3</sup> On January 9, 2003, the BSE filed Amendment No. 2

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Letter from George W. Mann, Jr., Executive Vice President and General Counsel, BSE, to Annette Nazareth, Director, Division of Market Regulation ("Division"), Commission, dated December 18, 2002.