

2. Approval of minutes of the *Board's* meetings of May 24, 2004 and June 5, 2004;

3. Approval of minutes of the *Search Committee's* meeting of June 5, 2004;

4. *Chairman's* Report;

5. *Members'* Reports;

6. *President's* Report;

7. *Acting Inspector General's* Report;

8. Consider and act on the report of the Board's *Committee on Provision for the Delivery of Legal Services*;

9. Consider and act on the report of the Board's *Finance Committee*;

10. Consider and act on the report of the Board's *Operations & Regulations Committee*;

11. Consider and act on the locations of the Board's meetings for the remainder of calendar year 2004 and the date and location of the 2005 Annual Meeting;

12. Consider and act on other business;

13. Public comment;

14. Consider and act on whether to authorize an executive session of the Board to address items listed below under *Closed Session*;

#### Closed Session

15. Briefing by management on internal personnel matters;

16. Briefing by the Inspector General on the activities of the Office of Inspector General;

17. Consider and act on General Counsel's report on potential and pending litigation involving LSC;

18. Consider and act on motion to adjourn meeting.

*Contact Person for Information:* Patricia D. Batie, Manager of Board Operations, at (202) 295-1500.

*Special Needs:* Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia D. Batie, at (202) 295-1500.

Dated: September 1, 2004.

**Victor M. Fortuno,**

*Vice President for Legal Affairs, General Counsel & Corporate Secretary.*

[FR Doc. 04-20269 Filed 9-1-04; 3:12 pm]

BILLING CODE 7050-01-P

## NUCLEAR REGULATORY COMMISSION

### Sunshine Act Meeting

**DATE:** Weeks of September 6, 13, 20, 27, October 4, 11, 2004.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and closed.

**MATTERS TO BE CONSIDERED:**

#### Week of September 6, 2004

*Tuesday, September 7, 2004*

2 p.m. Discussion of Security Issues (closed—ex. 1).

*Wednesday, September 8, 2004*

9:30 a.m. Discussion of Office of Investigations (OI) Programs and Investigations (closed—ex. 7).

#### Week of September 13, 2004

*Tuesday, September 14, 2004*

9:30 a.m. Discussion of Security Issues (closed—ex. 1).

#### Week of September 20, 2004—Tentative

There are no meetings scheduled for the week of September 20, 2004.

#### Week of September 27, 2004—Tentative

There are no meetings scheduled for the week of September 27, 2004.

#### Week of October 4, 2004—Tentative

*Thursday, October 7, 2004*

10:30 a.m. Discussion of Security Issues (closed—ex. 1).

1 p.m. Discussion of Security Issues (closed—ex. 1).

#### Week of October 11, 2004—Tentative

*Wednesday, October 13, 2004*

9:30 a.m. Briefing on Decommissioning Activities and Status (Public Meeting). (Contact: Claudia Craig, (301) 415-7276.)

This meeting will be webcast live at the Web address, <http://www.nrc.gov>.

1:30 p.m. Discussion of Intragovernmental Issues (closed—ex. 1 & 9).

\* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292. Contact person for more information: Dave Gamberoni, (301) 415-1651.

\* \* \* \* \*

The NRC Commission Meeting Schedule can be found on the internet at: <http://www.nrc.gov/what-we-do/policy-making/schedule.html>.

\* \* \* \* \*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the

public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at (301) 415-7080, TDD: (301) 415-2100, or by e-mail at [aks@nrc.gov](mailto:aks@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

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This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301) 415-1969. In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [dkw@nrd.gov](mailto:dkw@nrd.gov).

Dated: August 31, 2004.

**Dave Gamberoni,**

*Office of the Secretary.*

[FR Doc. 04-20195 Filed 9-1-04; 8:45 am]

BILLING CODE 7590-01-M

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of September 6, 2004:

A closed meeting will be held on Thursday, September 9, 2004 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

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)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Atkins, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed meeting scheduled for Thursday, September 9, 2004 will be:

formal orders of investigations; settlement of injunctive actions; institution and settlement of

administrative proceedings of an

enforcement nature; and adjudicatory matter.

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) 942-7070.

Dated: August 31, 2004.

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 04-20215 Filed 9-1-04; 11:20 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27886; 3-11616]

### American Electric Power Company Inc. (70-9381); Notice and Order for a Hearing Pursuant to Section 19 of the Public Utility Holding Company Act of 1935

August 30, 2004.

This matter is before the Securities and Exchange Commission ("Commission") on remand from the United States Court of Appeals for the District of Columbia ("Court"). The Court, in *National Rural Electric Cooperative Association, et al. v. Securities and Exchange Commission*, 276 F.3d 609 (D.C. Cir. 2002), considered a Commission order<sup>1</sup> that authorized the American Electric Power Company Inc. ("AEP"), a holding company registered under the Public Utility Holding Company Act of 1935, as amended ("Act"), to acquire Central and South West Corporation ("CSW").<sup>2</sup> However, the Court found that the Commission's order did not adequately explain its determination that a unidirectional contract met the Act's interconnection requirement and that it had not made sufficient evidentiary findings and had not engaged in the

<sup>1</sup> American Electric Power Co., Inc., and Central and South West Corp., Holding Co. Act Release No. 27186 (June 14, 2000). In addition to approving the proposed transaction, the Commission denied the hearing requests of the American Public Power Association ("APPA"), the National Rural Electric Cooperative Association ("NRECA"), Consumers for Fair Competition and Mr. Paul S. Davis. The APPA and NRECA jointly filed the petition for review that led to the Court of Appeals decision remanding this matter to the Commission.

The merger was completed on June 15, 2000. The appeal did not stay the operation of the order. See section 24(b) of the Act.

<sup>2</sup> In the original proceeding, AEP and CSW, at that time each public utility holding companies separately registered under the Act, were joint applicants. AEP and CSW merged following issuance of the Commission's order, with AEP as the surviving registrant.

proper legal analysis to support its conclusion that the resulting system would operate in a single area or region. The Court therefore remanded the matter for the Commission to provide a fuller explanation of its rationale.

Section 10(c)(1) and, by reference, section 11(b)(1), of the Act require the Commission to find that the utility operations to be acquired by a holding company, when combined with its existing operations, will constitute a "single integrated public-utility system."<sup>3</sup> Section 2(a)(29)(A) of the Act defines an electric "integrated public-utility system" to mean,

[A] system \* \* \* whose utility assets, whether owned by one or more electric utility companies, are physically interconnected and which under normal conditions may be economically operated as a single interconnected and coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation.

Section 10(c)(2) of the Act further requires the Commission to find that a proposed acquisition will "serve the public interest by tending towards the economical and the efficient development of an integrated public-utility system."

The Court of Appeals upheld the Commission's finding under section 10(c)(2) that the merger would produce economies and efficiencies. However, the Court found that the Commission's order did not adequately justify two of its findings: (1) it did not "provide a satisfactory explanation" for the determination that a unidirectional contract path would "interconnect" AEP and CSW (together, "Applicants"),<sup>4</sup> and (2) it "failed to make any evidentiary findings" or to engage in the proper legal analysis to support its conclusion that the resulting system would operate in a "single area or region."<sup>5</sup> Based on these conclusions, the Court vacated the order and "remanded for further proceedings consistent with this opinion."

We believe further supplementation of the record is required for us to address the issues identified in the

<sup>3</sup> Section 10(c)(1) of the Act in pertinent part requires the Commission not to approve an acquisition of securities or utility assets that is "detrimental to the carrying out of the provisions of section 11." Section 11(b)(1) in pertinent part limits the operations of a holding company system to a single integrated public-utility system.

<sup>4</sup> *National Rural Electric Cooperative Association v. SEC*, 276 F.3d at 616 (D.C. Cir. 2002).

<sup>5</sup> *Id.* at 617.

Court's opinion and to determine on remand whether the combined AEP and CSW systems meet the relevant standards of sections 10(c)(1) and 11(b)(1) of the Act and in particular, what specific facts about AEP's and CSW's electric systems and the geographic area covered by their systems are relevant to the required determinations. We recognize that parties to this proceeding may wish to introduce facts regarding the current state of the utility industry, in particular facts regarding the growth of regional transmission organizations and the unbundling of generation, transmission and distribution assets that has occurred in recent years that they believe are relevant to this determination. We also recognize that the parties may wish to introduce further facts—demographic, economic, and otherwise—regarding the geographic area in which the combined AEP-CSW system operates that they believe are relevant to this determination.

Therefore, in light of the issues raised by the Court of Appeals' opinion, it appears to the Commission that it is appropriate in the public interest that a hearing be held with respect to the proposed transaction. The hearing shall be limited to determining whether AEP and CSW are interconnected, through a unidirectional contract path or otherwise, and whether the resulting combined system operates in a single area or region. Accordingly,

*It is ordered* that a hearing shall be commenced, pursuant to section 19 of the Act and in accordance with the Commission's Rules of Practice,<sup>6</sup> at a time and place to be fixed by further order, for the purpose of determining whether the AEP and CSW systems are interconnected and operate in the same area or region, and hence satisfy the requirements of sections 10(c)(1) and 11(b)(1) of the Act and that an Administrative Law Judge, to be designated by further order, preside at the hearing.

*It is further ordered* that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order.

*It is further ordered* the Division of Investment Management shall be a party to the proceeding.

*It is further ordered* that any person, other than the American Electric Power Company and the Division of Investment Management, who wishes to be heard or who otherwise desires to participate in the proceeding, whether as a party or as a limited participant, shall file a written motion seeking to do

<sup>6</sup> 17 CFR part 201.