

Edgar Filing: ENERGY EAST CORP - Form U-1/A

ENERGY EAST CORP
Form U-1/A
October 31, 2001

File No. 70-9875

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

AMENDMENT NO. 3 TO FORM U-1

APPLICATION/DECLARATION

UNDER

THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Energy East Corporation
New York State Electric & Gas Corporation
P.O. Box 12904
Albany, New York 12212-2904

(Names of companies filing this statement and addresses of principal executive offices)

Energy East Corporation

(Name of top registered holding company parent)

Kenneth M. Jasinski
Executive Vice President, General Counsel and Secretary
Energy East Corporation
P.O. Box 12904
Albany, New York 12212-2904

(Names and addresses of agent for service)

The Commission is requested to send copies of all orders, notices and communications to:

Adam Wenner
Donna J. Bobbish
Vinson & Elkins L.L.P.
1455 Pennsylvania Ave., N.W.
Washington, D.C. 20004
(202) 639-6618

Frank Lee
Huber Lawrence & Abell
605 Third Avenue
New York, New York 10158
(212) 682-6200

The Form U-1 Application/Declaration in this proceeding filed originally with the Securities and Exchange Commission on March 30, 2001, amended and restated on August 28, 2001, and amended on October 29, 2001, is hereby amended to provide an updated analysis under Rules 53 and 54.

1

ITEM 3. APPLICABLE STATUTORY PROVISIONS

This filing also is subject to Rules 53 and 54.(1) Under Rule 53(a), the Commission shall not make certain specified findings under Sections 7 and 12 in connection with a proposal by a holding company to issue securities for the purpose of financing the acquisition of an "exempt wholesale generator" ("EWG"), or to guaranty the securities of an EWG, if each of the conditions in paragraphs (a)(1) through (a)(4) thereof are met, provided that none of the conditions

Edgar Filing: ENERGY EAST CORP - Form U-1/A

specified in paragraphs (b)(1) through (b)(3) of Rule 53 exists. Rule 54 provides that the Commission shall not consider the effect of the capitalization or earnings of subsidiaries of a registered holding company that are EWGs or "foreign utility companies" ("FUCOs") in determining whether to approve other transactions if Rule 53(a), (b) and (c) are satisfied. These standards are met.

Rule 53(a)(1): Rule 53(a)(1) limits a registered holding company's financing of investments in EWGs if that holding company's "aggregate investment" in EWGs and FUCOs exceeds 50% of its "consolidated retained earnings." Immediately following the Closing Date, Energy East's "aggregate investment" in EWGs and FUCOs will be approximately \$25 million, or approximately 0.2 percent of Energy East's "consolidated retained earnings" at June 30, 2001 (approximately \$1,006 million).

Rule 53(a)(2): Energy East has complied and will continue to comply with the record keeping requirements of Rule 53(a)(2) concerning affiliated EWGs and FUCOs. Specifically, Energy East will maintain books and records enabling it to identify investments in and earnings from each EWG and FUCO in which it directly or indirectly acquires and holds an interest. Energy East will cause each domestic EWG in which it acquires and holds an interest, and each foreign EWG and FUCO that is a majority-owned subsidiary, to maintain its books and records and prepare its financial statements in conformity with U.S. generally accepted accounting principles ("GAAP"). All of such books and records and financial statements will be made available to the Commission, in English, upon request.

Rule 53(a)(3): As required by Rule 53(a)(3), no more than 2 percent of the employees of NYSEG, The Southern Connecticut Gas Company, Maine Natural Gas Corporation, Central Maine Power Company, Maine Electric Power Company, Inc., NORVARCO, Connecticut Natural Gas Corporation and The Berkshire Gas Company will, at any one time, directly or indirectly, render services to EWGs and FUCOs.

In addition, Energy East states that the provisions of Rule 53(a) are not made inapplicable to the authorization herein requested by reason of the occurrence or continuance of any of the circumstances specified in Rule 53(b). Rule 53(c) is inapplicable by its terms.

1 17 C.F.R. Sec. 250.53 and 250.54 (2000).

SIGNATURE

Pursuant to the requirements of the Public Utility Holding Company Act of 1935, the undersigned companies have duly caused this statement to be signed on their behalf by the undersigned thereunto duly authorized.

ENERGY EAST CORPORATION

Dated: October 31, 2001

By: /s/ Robert D. Kump

Name: Robert D. Kump
Title: Vice President and Treasurer

NEW YORK STATE ELECTRIC
& GAS CORPORATION

Edgar Filing: ENERGY EAST CORP - Form U-1/A

By: /s/ Sherwood J. Rafferty

Name: Sherwood J. Rafferty

Title: Senior Vice President and
Chief Financial Officer