

*It is ordered:* 1. Having conducted hearings pursuant to 39 U.S.C. § 3662 for the purpose of considering the Complaint of the Coalition Against Unfair USPS Competition, filed May 23, 1996, the Commission finds that Complaint to be justified.

2. For the reasons set out at length in the body of this Order, the Commission finds the Pack & Send service currently offered on a limited basis by the United States Postal Service to be a postal service subject to the Commission's ratemaking jurisdiction pursuant to 39 U.S.C. 3622 and its mail classification jurisdiction pursuant to 39 U.S.C. 3623.

3. Further proceedings in this docket shall be held in abeyance pending the filing of a Request of the Governors of the United States Postal Service for establishment of Pack & Send service as a mail classification and for the recommendation of rates for that service, or the filing of a notice by the United States Postal Service to the effect that Pack & Send service has been discontinued.

4. The Secretary of the Commission shall notify the Complainant, the Postal Service, and all other parties to this proceeding of the actions taken in this Order, as well as the Governors of the United States Postal Service, and shall submit it for publication in the Federal Register.

By the Commission.

Margaret P. Crenshaw,  
Secretary.

[FR Doc. 96-32288 Filed 12-19-96; 8:45 am]

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## RAILROAD RETIREMENT BOARD

### Agency Forms Submitted for OMB Review

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

#### SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Employee's Certification.

(2) *Form(s) submitted:* G-346.

(3) *OMB Number:* 3220-0140.

(4) *Expiration date of current OMB clearance:* February 28, 1997.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 5,400.

(8) *Total annual responses:* 5,400.

(9) *Total annual reporting hours:* 450.

(10) *Collection description:* Under Section 2 of the Railroad Retirement Act, spouses of retired railroad employees may be entitled to an annuity. The collection obtains information from the employee about the employee's previous marriages, if any, to determine if any impediment exists to the marriage between the employee and his or her spouse.

#### ADDITIONAL INFORMATION OR COMMENTS:

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96-32299 Filed 12-19-96; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-26625]

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

December 13, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. 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 amendments thereto is/are available for public inspection through the Commission's Office 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 January 6, 1997, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, 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 case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall

identify specifically the issues of fact 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 said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

*AYP Capital, Inc., et al. (70-8951)*

AYP Capital, Inc. ("AYP"), a nonutility subsidiary company of Allegheny Power System, Inc. ("APS"), a registered holding company, both located at 10435 Downsville Pike, Hagerstown, Maryland 21720, have filed an application under sections 9(a) and 10 of the Act and rule 54 thereunder.

By order dated July 14, 1994 (HCAR No. 26085), APS was authorized, among other things, to organize and finance AYP to invest in companies: (1) Engaged in new technologies related to the core utility business of APS; and (2) that acquire and own exempt wholesale generators ("EWGs"). By subsequent order dated February 3, 1995 (HCAR No. 26229), AYP was authorized to engage in the development, acquisition, construction, ownership and operation of EWGs and in development activities with respect to: (1) Qualifying cogeneration facilities and small power production facilities ("SPPs"); (2) non-qualifying cogeneration facilities, non-qualifying SPPs, and independent power production facilities ("IPPs") located within the service territories of APS public utility subsidiary companies; (3) EWGs; (4) companies involved in new technologies related to the core business of APS; and (5) foreign utility companies ("FUCOS"). APS was also authorized to increase its investment in AYP from \$500,000 to \$3 million.

By order dated October 27, 1995 (HCAR No. 26401) ("October Order"), the Commission authorized AYP or a special-purpose subsidiary ("NEWCO") to provide certain enumerated energy management services ("EMS") and demand-side management services ("DSM") to non-associated customers at market prices and to associated companies at cost,<sup>1</sup> and AYP to engage

<sup>1</sup> The EMS services authorized included: (1) Identification of energy cost reduction and efficiency opportunities; (2) design of facility and process modifications to realize such efficiencies; (3) management of or the direct construction and installation of energy conservation and equipment; (4) training of client personnel in operation of equipment; (5) maintenance of energy systems; (6) design, management, construction and installation of energy management systems and structures; (7) performance contracts; (8) identifying energy conservation or efficiency programs; (9) system

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in activities relating to the development, acquisition, ownership, construction and operation of FUCOS; and to invest in FUCOs through various types of investment vehicles, including limited partnerships or other types of funds, the sole objective of which is to make investments in one or more FUCOs. The October Order also authorized: (1) APS to invest directly and indirectly in AYP and NEWCOs up to an aggregate of \$100 million through December 31, 1999 through loans to finance activities related to EMS and DSM services, accounts receivable, real estate, FUCOs and EWGs ("Approved Activities"); (2) APS and AYP to acquire the securities of NEWCOs that own FUCOs or EWGs ("Project NEWCOs"); (3) AYP or a NEWCO to factor the accounts receivable of associate companies and of nonassociate companies whose primary revenues are derived from the sale of electric power; and (4) AYP or a NEWCO, as agent for APS system companies, to manage the real estate portfolio of APS and its associate companies, to market excess or unwanted real estate and to facilitate the exploitation of resources contained on or in real estate.

AYP, the NEWCOs, and the Project NEWCOs were authorized to obtain loans from banks or issue other recourse obligations which could be guaranteed by APS or AYP. Such third-party borrowings by AYP, the NEWCOs and the Project NEWCOs that are guaranteed by APS or AYP are subject to the \$100 million investment authority. Through December 31, 1999, APS and AYP were authorized to guarantee or act as surety and bonds, indebtedness and performance and other obligations issued or undertaken by AYP, the NEWCOs or the Project NEWCOs subject to the \$100 million investment authority.

By order dated October 9, 1996 (HCAR No. 26590), the Commission authorized APS and AYP to increase the limit on loans and guarantees from \$100 million to \$300 million for all Approved Activities.

Applicants now request authority, through December 31, 1999, to allow AYP and one or more special purpose subsidiaries ("NEWMARKETCOs") to engage in marketing, selling, acquisition and installation of a new type of heat pump to and for: (1) Nonassociated

industrial, commercial and residential customers located within the five states in which APS's operating subsidiaries provide electric service and (2) persons and businesses located in Washington, D.C. AYP proposes to finance the above-mentioned activities up to an aggregate principal amount of five hundred thousands dollars (\$500,000).

AYP or the NEWMARKETCO will contract with a representative of the heat pump's manufacturer for exclusive distribution rights. The heat pump is currently installed primarily in the southern United States. AYP or the NEWMARKETCO proposes to serve as a distributor and provide a sales force in an exclusive territory that will include Maryland, Ohio, Pennsylvania, Virginia, West Virginia, and Washington, D.C. Earnings are projected to be approximately 25% of total revenues. Current analysis estimates profits at approximately \$150,000 in the first year of the project, rising steadily to approximately \$600,000 in year four. It is estimated that two full-time employees will be necessary to handle shipping, logistics, billing, reporting, and general administration (one full-time office associate and two staff members sharing responsibility).

The applicants propose that Allegheny Power Service Corporation ("APSC") will assist AYP or NEWMARKETCO with marketing, customer billing, accounting or other energy-related services. It is anticipated that any services provided by APSC can be done with current staff and that the number of APSC personnel involved will not be of such magnitude that utility services would in any way be impaired. All services provided by APSC to AYP or NEWMARKETCO will be in accordance with the cost standard established in section 13(b) of the Act and rules 90 and 91 thereunder.

#### *Appalachian Power Company (70-8957)*

Appalachian Power Company ("APCO"), 1 Riverside Plaza, Columbus, Ohio 43215, an electric utility subsidiary of American Electric Power Company, a registered holding company, has filed a declaration under section 6(a) of the Act.

APCO is party to a utility mortgage (the "Mortgage") dated December 1, 1940 with Bankers Trust Company (the "Trustee"). Under Section 40 of the Mortgage, APCO covenants that it will "make or cause to be made such expenditures by means of repairs, maintenance, substitutions of property or otherwise as shall be necessary to maintain, preserve and keep the mortgaged property to good repair,

working order and condition as an operating system or systems \* \* \*."

In furtherance of this maintenance obligation, APCO annually must furnish the Trustee with a treasurer's maintenance certificate. Part I of the maintenance certificate requires that the maintenance obligation be calculated on a 15% of base operating revenue test. Part II of the maintenance certificate supplements Part I by requiring that the maintenance obligation be calculated on the basis of a percentage of depreciable property, currently 2.25% (the "Applicable Percentage").

In a previous order dated May 7, 1979 (HCAR No. 21040), the Commission authorized APCO, among other things, to amend its Mortgage to facilitate (by removing the requirement of prior bondholder approval) the future deletion of Part I of the two-part maintenance certificate requirement, and, upon such deletion, to change the Applicable Percentage specified in Part II of the maintenance certificate requirement from 2.25% to 2.90%, "unless a different percentage is authorized or approved by [the] Commission." The order specified that the contemplated future amendment of the Mortgage to delete Part I of the maintenance certificate requirement and change the Applicable Percentage in Part II from 2.25% to 2.90% could not take place as long as bonds issued under the original two-part maintenance certificate requirement were outstanding. Since no such bonds remain outstanding, APCO now proposes to delete Part I of the maintenance certificate requirement, but seeks authorization to retain the 2.25% Applicable Percentage in Part II instead of increasing it to 2.90%.

Applicant states that the current 2.25% Applicable Percentage is a reasonable annual requirement for the replacement of the book cost of depreciable mortgaged property and that retention of the 2.25% Applicable Percentage will benefit the holders of outstanding bonds by not increasing the amount of their outstanding bonds subject to redemption at par, thus preserving the holders' anticipated interest income over the life of the bonds.

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

Jonathan G. Katz,  
Secretary.

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commissioning; (10) reporting system results; and (11) other similar or related energy management activities. The DSM services authorized included: (i) design of energy conservation programs; (ii) implementation of energy conservation programs; (iii) performance contracts for DSM work; (iv) monitoring and evaluating DSM programs; and (v) other similar or related DSM activities.