

E ON AG  
Form U-1/A  
December 29, 2003

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File No. 70-10176

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON D.C. 20549

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**AMENDMENT NO. 2  
TO  
FORM U-1 APPLICATION-DECLARATION  
UNDER  
THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935**

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**E.ON AG**

E.ON - Platz 1  
40479 Dusseldorf  
Germany

**E.ON US Investments Corp.**

220 West Main Street  
Louisville, Kentucky 40202

**LG&E Energy Corp.**

220 West Main Street  
Louisville, Kentucky 40202

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

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**E.ON AG**

(Name of top registered holding company parent of each applicant or declarant)

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This Amendment No. 2 amends and restates the Application-Declaration on Form U-1 filed in File No. 10176 with the Securities and Exchange Commission (the "Commission") on October 14, 2003, as amended by Amendment No. 1 filed on October 20, 2003, with the exception that it does not replace Exhibits A-1, B-1 and C which were previously filed.

**ITEM 1. DESCRIPTION OF THE PROPOSED TRANSACTION**

A.  
    Introduction and General Request

In this application (this "Application"), E.ON AG ("E.ON"), a registered holding company under the Public Utility Holding Company Act of 1935 (the "Act"), E.ON US Investments Corp. ("EUSIC"), a registered holding company under the Act, and LG&E Energy Corp., a public utility holding company exempt by order under Section 3(a)(1) of the Act ("LG&E Energy" and, together with E.ON and EUSIC, the "Applicants"), request authorization pursuant to Sections 6(a), 7, 9(a), 10 and 12(d) of the Act for a reorganization of LG&E Energy that will

result in a change of its organizational form from a Kentucky corporation to a Kentucky limited liability company (the "Transaction"). As described more fully below, the Transaction involves the formation of a Kentucky limited liability company as a subsidiary of EUSIC ("New LG&E Energy"), the transfer of substantially all the assets and liabilities of LG&E Energy to New LG&E Energy and the merger of LG&E Energy with New LG&E Energy. Upon the merger of LG&E Energy with New LG&E Energy, New LG&E Energy will be the surviving entity. The Transaction effects, in a tax efficient manner, a change in LG&E Energy's organizational form, but will not result in E.ON directly or indirectly acquiring any new public utility companies or holding companies, utility assets or new businesses.

B.  
The Applicants

E.ON registered as a holding company under the Act on July 1, 2002, as a result of E.ON's acquisition of Powergen Limited, formerly known as Powergen plc ("Powergen"). The Securities and Exchange Commission (the "Commission") approved the acquisition in Holding Company Act Release No. 27539 (June 14, 2002) (the "Acquisition Order"). E.ON owns LG&E Energy, which in turn owns two public utility companies, Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU"). E.ON's interest in LG&E Energy is held indirectly through several intermediate holding companies. EUSIC is the direct parent of LG&E Energy.

C.  
The Transaction Structure

As noted above, LG&E Energy is a wholly-owned, first tier subsidiary of EUSIC. LG&E Energy proposes to change its organizational form from a Kentucky corporation to a Kentucky limited liability company. In order to accomplish the Transaction under Kentucky law and in a tax-efficient manner, the following successive steps must be completed. First, New LG&E Energy will be formed by EUSIC as a Kentucky limited liability company. The form of New LG&E Energy's Articles of Organization and Operating Agreement are attached hereto as Exhibits A-1 and A-2. At this point, EUSIC will be the sole member of New LG&E Energy.<sup>1</sup> Second, LG&E Energy will transfer to New LG&E Energy substantially all of its assets and liabilities, including the stock of LG&E and KU, in exchange for membership interests in New LG&E Energy. Then, pursuant to an agreement and plan of merger (the form of which is attached as Exhibit A-3), LG&E Energy will merge with and into New LG&E Energy (the "Merger"), with New LG&E Energy as the surviving entity and as successor to LG&E Energy. To effect the Merger, New LG&E Energy will file Articles of Merger with the Secretary of State of the Commonwealth of Kentucky. A form of the Articles of Merger is attached hereto as Exhibit A-4. The Merger will be effective upon acceptance of such filing by the Secretary of State of the Commonwealth of Kentucky. Thus, when the Transaction is completed, LG&E Energy will continue to be wholly-owned

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by EUSIC, with the only substantive change being that LG&E Energy will have changed its organizational form from a Kentucky corporation to a Kentucky limited liability company.

<sup>1</sup> According to Section 275.015(8) of the Kentucky Limited Liability Company Act, a Kentucky limited liability company may have one or more members.

LG&E Energy is exempt from registration under the Act pursuant to Section 3(a)(1) of the Act.<sup>2</sup> New LG&E Energy will not, however, rely on an exemption from registration under Section 3(a)(1) of the Act. Upon consummation of the Transaction, New LG&E Energy will register as a holding company pursuant to the Section 5 of the Act. Thus, New LG&E Energy withdraws its request for an exemption pursuant to Section 3(a)(1) of the Act.

<sup>2</sup> The Commission initially granted LG&E Energy's exemption in Holding Co. Act Release No. 26866 (April 30, 1998). The Commission reaffirmed LG&E Energy's exemption under Section 3(a)(1) of the Act in its order authorizing the acquisition of LG&E Energy by Powergen (Holding Co. Act Release No. 27291 (Dec. 6, 2000)) and in its order authorizing the acquisition of Powergen by E.ON (Holding Co. Act Release No. 27539 (June 14, 2002)).

New LG&E Energy will succeed to LG&E Energy's ownership of LG&E and KU, as well as its nonutility subsidiaries. New LG&E Energy will also be the successor of LG&E Energy with respect to its commitments and authorizations set forth in the Acquisition Order and any and all other orders of the Commission applicable to LG&E Energy.<sup>3</sup>

<sup>3</sup> The authorization sought herein is substantially similar to the authority granted to KeySpan Corporation, Holding Company Act Release No. 27532 (May 29, 2002) (authorizing Eastern Enterprises to change from a Massachusetts business trust into a Massachusetts limited liability company) (the "KeySpan Order"). See also, Allegheny Energy, Inc., Holding Co. Act Release No. 27486 (December 31, 2001) (authorizing

Allegheny Energy Supply Company, LLC to reincorporate in Maryland).

**ITEM 2. FEES, COMMISSIONS AND EXPENSES**

The fees, commissions and expenses incurred or to be incurred in connection with this Application are estimated at approximately \$30,000.

**ITEM 3. APPLICABLE STATUTORY PROVISIONS**

A.

Discussion.

Applicants consider Sections 6(a), 7, 9(a)(1), 9(a)(2), 10 and 12(d) of the Act and Rules 43 and 54 promulgated under the Act applicable to the Transaction. Sections 6 and 7 apply to New LG&E Energy's proposed issuance of membership interests to EUSIC and LG&E Energy. Sections 9(a)(1) and 10 and Rules 43 and 54 apply to LG&E Energy's and EUSIC's acquisition of membership interests of New LG&E Energy and the merger of LG&E Energy with and into New LG&E Energy. Sections 9(a)(2) and 12(d) and Rule 43 also apply to the transfer of the securities of LG&E and KU by LG&E Energy to New LG&E Energy.

To the extent that the proposed Transaction is considered by the Commission to require authorization, exemption or approval under any section of the Act or Rules other than those set forth above, request for such authorization, exemption or approval is hereby made.

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B.

Sections 6 and 7

The issuance by New LG&E Energy of its membership interests satisfies the requirements of Section 6(a) of the Act. Section 6(a) prohibits a registered holding company or subsidiary company from issuing or selling any security of such company except in accordance with a declaration effective under Section 7 and with a Commission order permitting such declaration to become effective. Section 7(c)(2)(A) of the Act provides that the Commission shall not permit a declaration regarding the issuance or sale of securities unless it finds that such security is being issued or sold solely to effect a merger, consolidation or other reorganization. The issuance by New LG&E Energy of its membership interests satisfies these requirements.

Section 7(d) of the Act provides that, if the requirements of Sections 7(c) and 7(g) are satisfied,<sup>4</sup> the Commission shall permit a declaration regarding the issuance or sale of a security to become effective unless it makes certain negative findings. Section 7(d) provides that the Commission shall not permit such a declaration to become effective if it finds that (1) the security is not reasonably adapted to the security structure of the declarant and other companies in the same holding system; (2) the security is not reasonably adapted to the earning power of the declarant; (3) financing by the issuance and sale of the particular security is not necessary or appropriate to the economical and efficient operation of the business in which the applicant is lawfully engaged or has an interest; (4) the fees, commissions or other remuneration paid in connection with the issuance and sale of the security are not reasonable; or (5) the terms and conditions of the issuance or sale of the security are detrimental to the public interest or the interests of investors or consumers.

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<sup>4</sup> Section 7(g) provides that if a state commission or state securities commission that has jurisdiction over any of the acts set forth in Section 6(a) informs the Commission that applicable states laws to the act in question have not been complied with, the Commission shall not permit a declaration regarding the act in question to become effective.

Applicants submit that none of the negative findings set forth in Section 7(d) may be made with respect to the issuance by New LG&E Energy of its membership interests. The formation of New LG&E Energy facilitates the change of LG&E Energy's organizational form from a Kentucky corporation to a Kentucky limited liability company. The change in LG&E Energy's organizational form to a limited liability company will create a more efficient tax structure and enable the E.ON system to respond to a changing environment. Specifically, the new organizational form is in response to a recent development in Kentucky corporate license tax, whereby the capital of subsidiary companies is subject to the tax, due to a Kentucky judicial decision which rendered KRS 136.071 unconstitutional. The proposed Transaction responds to this change through the creation of a limited liability company that will not otherwise be subject to this multi-million dollar increase in tax. Such change will allow greater flexibility in the capital structure of LG&E Energy on an ongoing basis as capital contributions can be made to New LG&E Energy that will not be subject to the license tax, thereby allowing the E.ON system to be more competitive with other companies in the marketplace.

C.

Sections 9 and 10

The Transaction involves (i) EUSIC's acquisition of the membership interest of New LG&E Energy,<sup>5</sup> (ii) the transfer of substantially all of the assets and liabilities of LG&E Energy, including the securities of LG&E and KU, to New LG&E Energy and (iii) the merger of LG&E Energy with and into New LG&E Energy, with New LG&E Energy being the surviving entity and the owner of LG&E and KU. Section 9(a) requires that any registered holding company or its subsidiary companies obtain approval pursuant to Section 10 of the Act to directly or indirectly acquire any securities, utility assets or any other interests in any business. The statutory standards to be considered by the Commission in evaluating the acquisition under Section 9(a) are set forth in Section 10(b), 10(c) and 10(f) of the Act. As demonstrated below, the Transaction complies with all of the applicable provisions of Section 10 of the Act and should be approved by the Commission.

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<sup>5</sup> As noted above, EUSIC will acquire 100% of the membership interests of New LG&E Energy upon the formation of New LG&E Energy. LG&E Energy will receive membership interests from New LG&E Energy in exchange for the transfer by LG&E Energy of substantially all of its assets and liabilities to New LG&E Energy. These membership interests in New LG&E Energy acquired by LG&E Energy will be cancelled in the merger of LG&E Energy into New LG&E Energy, leaving EUSIC as the sole owner of New LG&E Energy.

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Section 10(b) of the Act provides that if the requirements of Section 10(f) are satisfied, the Commission shall approve an acquisition of securities or utility assets, unless the Commission finds that: (i) such acquisition will tend towards interlocking relations for the concentration of control of public-utility companies, of a kind or to an extent detrimental to the public interest or the interest of investors or consumers; (ii) the consideration to be paid in connection with such acquisition is not reasonable or does not bear a fair relation to the sums invested in or the earning capacity of the utility assets underlying the securities to be acquired; or (iii) such acquisition will unduly complicate the capital structure of the holding company system of the applicant or will be detrimental to the functioning of such holding company system. Section 10(c) of the Act provides that, notwithstanding the provisions of Section 10(b), the Commission shall not approve (i) the acquisition of securities or utility assets, or of any other interest, which is unlawful under the provisions of Section 11; or (ii) the acquisition of securities or utility assets of a public utility or holding company unless the Commission finds that such acquisition will serve the public interest by tending towards the economical and efficient development of an integrated public utility system.

None of the negative standards set forth in Sections 10(b) or (c) are implicated by the Transaction. In the Acquisition Order, the Commission examined E.ON's acquisition of Powergen and the indirect acquisition of EUSIC, LG&E Energy, LG&E and KU under Sections 10(b) and (c) and approved the transaction concluding that these provisions were satisfied. Other than the proposed registration of New LG&E Energy as a holding company under the Act, there will be no material change to the facts presented by the Applicants in the Application-Declaration on Form U-1 in File No. 70-9961 (the "Acquisition Application"). The Transaction will simply effect a change in LG&E Energy's organizational form and will not involve any direct or indirect acquisition of new public utility securities or assets or businesses not previously held by E.ON or LG&E Energy as approved in the Acquisition Order.

Sections 10(b)(3), 11(a) and 11(b)(2) of the Act impose various requirements as to the corporate and capital structure of the E.ON system. E.ON's corporate structure after the Transaction will not be unduly complicated and will not be detrimental to the public interest or the interest of investors or consumers or the proper functioning of the resulting holding company system.

After consummation of the Transaction, E.ON will hold all of the equity ownership of New LG&E Energy through EUSIC and E.ON US Holdings GmbH ("E.ON US" and collectively with EUSIC, the "Intermediate Companies"). Accordingly, the resulting structure is a relatively simple chain of equity ownership between E.ON and New LG&E Energy. E.ON, E.ON US and EUSIC are registered holding companies under the Act. Upon consummation of the Transaction, New LG&E Energy will register as a holding company under the Act.

The relationship among New LG&E Energy (as successor to LG&E Energy) and its Utility Subsidiaries will remain unchanged. Moreover, the voting securities of LG&E Energy are, and following consummation of the Transaction the voting securities of New LG&E Energy will be, wholly-owned directly or indirectly by E.ON and the Intermediate Companies. Consequently, as required under Section 11(b)(2) of the Act, there will be no unequal distribution of voting power or the creation of minority interests as a consequence of the Transaction.

The Commission reviewed and permitted a structure including holding companies similar to this in Holding Co. Act Release No. 27291 (Dec. 6, 2000), authorizing Powergen plc's acquisition of LG&E Energy, and in Holding Co. Act Release No. 27154 (March 15, 2000), authorizing the acquisition of the New England Electric System by The National Grid Group plc. In the past, the Commission has recognized the necessity of permitting the continued existence of intermediate holding companies to achieve economic and tax efficiencies that would not otherwise be achievable in the absence of such arrangements. The Intermediate Companies will not be a means by which E.ON seeks to diffuse control of New LG&E Energy and its subsidiaries (collectively the "LG&E Energy Group"). Rather, the Intermediate Companies are special-purpose entities for the sole purpose of helping the parties capture economic efficiencies that might otherwise be lost in a cross-border transaction. The Intermediate Companies will not issue securities to third parties and consequently can appropriately be considered as mere

conduits. Each of the Intermediate Companies will be wholly-owned, directly or indirectly, and fully controlled by E.ON and the creation and existence of the Intermediate Companies

will not adversely affect the operation of the LG&E Energy Group. As such, the Intermediate Companies should be disregarded for purposes of Section 11(b)(2) of the Act. Furthermore, LG&E Energy, as a holding company, affords a mechanism by which the utility and nonutility businesses of the LG&E Energy Group can be segregated. Accordingly, this is not the type of situation that concerned the drafters of the Act, and, in the Applicants' view, the Commission should exercise its discretion to find that any apparent complexity of the proposed transaction structure is neither undue nor unnecessary.<sup>6</sup>

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<sup>6</sup>Congress adopted section 11(b)(2) to address the "leverage and pyramiding device that enabled holding companies to amass control over vast sums contributed by others and realize for itself large earnings and profits without proportionate investment the prime evil at which ss. 11(b)(2) is directed." American Power Co. v. SEC, 329 U.S. 90, 110 (1946) (upholding constitutionality of section 11(b)(2) of the Act). The extensive studies that preceded the passage of the Act found that the most distinctive characteristic of the holding company groups examined was the pyramided structure. As the United States Supreme Court has explained: "In its most common form, the pyramiding device consisted of interposing one or more subholding companies between the holding company and the operating companies and issuing, at each level of the structure, different classes of stock with unequal voting rights. Most of the financing of the various companies in the structure occurred through the sale to the public of bonds and preferred stock having low fixed returns and generally carrying no voice in the management. Under such circumstances, a relatively small but strategic investment in common stock (with voting privileges) in the higher levels of a pyramided structure often resulted in absolute control of underlying operating companies with assets of hundreds of millions of dollars. A tremendous "leverage" in relation to that stock was thus produced . . . . In many instances this created financially irresponsible managements and unsound capital structures." Id. at 100-01. See also, Entergy Corporation, Holding Co. Act Release No. 27039 (June 22, 1999) (finding, with respect to the formation of nonutility subsidiaries and holding companies and the issue of undue complexity under Section 11(b)(2) of the Act, that "the organizational structure contemplated by Entergy's Application has no relation to these historical abuses. Rather than a "leverage and pyramiding device," the proposed use of distinct special purpose subsidiaries offers various benefits. It facilitates selective diversification, affords separation between the utility and nonutility businesses, and provides additional flexibility for financing and for maintaining appropriate capital ratios.").

The Transaction also will have no impact on the capital structure of the E.ON group. No securities are issued that could increase the leverage of the E.ON group or lead to a decrease in financial soundness.

Section 10(f) of the Act provides that the Commission shall not approve any acquisition under Section 10 unless it appears to the satisfaction of the Commission that applicable state laws have been complied with, except where the Commission finds that compliance with such state laws would be detrimental to the carrying out of the provisions of Section 11. As described under the heading "ITEM 4. REGULATORY APPROVALS" below, no state regulatory approvals are required for the consummation of the Transaction. In addition, the Articles of Merger will be filed with the Secretary of State of the Commonwealth of Kentucky, following approval by the Commission. E.ON, EUSIC, New LG&E Energy and LG&E Energy will comply with all applicable state laws related to effectuating the proposed Transaction.

D.

Section 12(d) and Rule 43

Section 12(d) makes it unlawful for any registered holding company to sell any security that it owns of any public utility company, in contravention of any rules and regulations or orders as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of the Act. Rule 43 prohibits the sale by any registered holding company or subsidiary thereof of any securities or any other interest in any business, except pursuant to the order of the Commission.

As part of the Transaction, LG&E Energy will transfer substantially all of its assets and liabilities to New LG&E Energy, prior to the merger of LG&E Energy with and into New LG&E Energy. The Applicants request Commission authorization for the transfer of the securities of LG&E and KU to New LG&E Energy pursuant to Section 12(d) of the Act and Rule 43. Further, pursuant to Rule 43, the Applicants request Commission authorization for the transfer of LG&E Energy's interests in its

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non-utility subsidiaries to New LG&E Energy. The Applicants have structured the Transaction in order to effect the change in the organizational form of LG&E Energy in the most cost effective and tax efficient manner.

Although the steps of the Transaction require the transfer by LG&E Energy of its interests in its subsidiaries to New LG&E Energy, the proposed Transaction, taken as a whole, will simply effect a change in the organizational form of LG&E Energy. Following the merger, New LG&E Energy, as successor to LG&E Energy, will be in virtually the same position as LG&E Energy prior to the Transaction. Following the merger, New LG&E Energy will be a subsidiary of EUSIC and New LG&E Energy will own the assets, including the securities of LG&E and KU and the securities of the non-utility subsidiaries of LG&E Energy, which LG&E Energy owned prior to the Transaction. As a result, the proposed Transaction would have virtually no impact on the investors or consumers of the E.ON holding company system.

E.

### Other Authorizations

After completion of the Transaction, New LG&E Energy will succeed LG&E Energy as a direct subsidiary of EUSIC, an intermediate holding company. In the Acquisition Order, the Commission granted LG&E Energy authorizations to engage in certain financings and related transactions.

Applicants request that the Commission confirm that New LG&E Energy, as successor to LG&E Energy, will succeed to the authorizations granted to LG&E Energy pursuant to the Acquisition Order and any and all other orders of the Commission applicable to LG&E Energy.<sup>7</sup>

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<sup>7</sup>See the KeySpan Order, referenced in footnote 3 above.

F.

### Rule 54

Rule 54 provides that in determining whether to approve certain transactions other than those involving exempt wholesale generators, as defined in Section 32(a) of the Act ("EWGs"), or foreign utility companies, as defined in Section 33(a) of the Act ("FUCOs"), the Commission will not consider the effect of the capitalization or earnings of any subsidiary which is an EWG or FUCO if Rule 53(a), (b) and (c) are satisfied. E.ON satisfies all of the conditions of Rule 53 except Rule 53(a)(1).

As of June 30, 2003<sup>8</sup>, E.ON's "aggregate investment," as defined in Rule 53(a)(1), in EWGs and FUCOs was approximately \$12.5 billion. This amount is within the authorization granted to E.ON in the Acquisition Order. In the Acquisition Order, the Commission authorized E.ON to invest up to \$25 billion, plus an additional \$35 billion from proceeds of divestments, in EWGs and FUCOs and found that such an investment would not have either of the adverse effects set forth in Rule 53(c). There has been no material change in the facts or circumstances surrounding E.ON's capitalization since the Acquisition Order was issued.

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<sup>8</sup>This is the most current information available. Pursuant to Holding Co. Release No. 27539 (June 14, 2002), E.ON reports its aggregate investment in EWGs and FUCOs on a semiannual basis. Such information is not otherwise compiled.

At June 30, 2003, E.ON's common equity as a percentage of capitalization was 53.8%. The common equity ratios of LG&E and KU as of June 30, 2003 were 46.8% and 53.6%, respectively.

LG&E and KU and their respective customers will not be adversely impacted by the requested relief. The authorization requested in this Application will have no effect on the consolidated capitalization or retained earnings of E.ON, LG&E Energy, LG&E or KU. The requested authorization will not have a material adverse effect on the financial integrity of the E.ON system, or an adverse impact on E.ON's public-utility subsidiaries, their customers or the ability of the state commissions to protect the utility customers within their respective states.

E.ON currently complies with, and will comply with, the record-keeping requirements of Rule 53(a)(2), the limitation under Rule 53(a)(3) on the use of the E.ON's system's domestic public-utility company personnel to render services to EWGs and FUCOs, and the requirements of Rule 53(a)(4) concerning the submission of copies of certain filings under the Act to retail regulatory commissions. Further, none of the circumstances described in Rule 53(b) has occurred or is continuing.

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LG&E is subject to regulation by the Kentucky Public Service Commission (the "Kentucky Commission"). KU is subject to regulation by the Kentucky Commission, the Virginia State Corporation Commission (the "Virginia Commission") and the Tennessee Regulatory Authority (the "Tennessee Commission"). No approval of the Transaction by the Kentucky Commission, the Virginia Commission or the Tennessee Commission is required.

Since the Transaction involves a transfer of LG&E and KU, the Transaction is subject to the approval of the FERC under Section 203 of the Federal Power Act. The FERC issued an order on December 10, 2003 authorizing the proposed Transaction.

In addition, to effect the merger of LG&E Energy with and into New LG&E Energy, the Articles of Merger will be filed with the Secretary of State of the Commonwealth of Kentucky, following approval by the Commission.

Except as set forth above and other than the approval of the Commission, no other federal or state regulatory approvals are required for the Transaction.

### ITEM 5. PROCEDURE

Applicants respectfully request that the Commission proceed forthwith to issue a notice with regard to the transaction proposed herein and that it issue an order granting the application as soon after the conclusion of the notice period as is practicable.

Applicants waive a recommended decision by a hearing or other responsible officer of the Commission for approval of the application and consent to the Division of Investment Management's assistance in the preparation of the Commission's decision. There should not be a waiting period between the issuance of the Commission's order and the date on which it is to become effective.

### ITEM 6. EXHIBITS AND FINANCIAL STATEMENTS

#### Exhibits

| <u>Exhibit No.</u> | <u>Description of Document</u>   |
|--------------------|--|
| A-1                | Form of Articles of Organization of New LG&E Energy (previously filed)               |
| A-2                | Form of Operating Agreement of New LG&E Energy (revised)                             |
| A-3                | Form of Agreement and Plan of Merger (revised)                                       |
| A-4                | Form of Articles of Merger (revised)   |
| A-5                | Form of Contribution Agreement between E.ON US Investments Corp. and New LG&E Energy |
| A-6                | Form of Contribution Agreement between LG&E Energy Corp. and New LG&E Energy         |
| B-1                | Opinion of Counsel (previously filed)  |
| B-2                | Past-tense Opinion of Counsel (to be filed pursuant to Rule 24)                      |
| C                  | Form of Notice (previously filed)  |

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#### Financial Statements

| <u>Exhibit No.</u> | <u>Description of Document</u>  |
|--------------------|---|
| FS-1.1             | Consolidated Balance Sheet of E.ON as of December 31, 2002 (incorporated by reference to E.ON's Form 20-F for the year ended December 31, 2002, File No. 1-14688) |



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| <u>Exhibit No.</u> | <u>Description of Document</u>   |
|--------------------|--|
| FS-1.2             | Consolidated Statement of Income of E.ON for the year ended December 31, 2002 (incorporated by reference to E.ON's Form 20-F for the year ended December 31, 2002, File No. 1-14688) |
| FS-1.3             | Consolidated Balance Sheet of E.ON as of June 30, 2003 (incorporated by reference to E.ON's Form 6-K filed on August 14, 2003, File No. 1-14688)                                     |
| FS-1.4             | Consolidated Statement of Income of E.ON for the quarter ended June 30, 2003 (incorporated by reference to E.ON's Form 6-K filed on August 14, 2003, File No. 1-14688)               |

Applicants request a waiver of the requirement to provide pro forma financial statements because the Transaction simply involves LG&E Energy's conversion from a corporation to a limited liability company that will not require a pro forma adjustment to E.ON's books.

**ITEM 7. INFORMATION AS TO ENVIRONMENTAL EFFECTS**

The proposed transaction neither involves a "major federal action" nor "significantly affects the quality of the human environment" as those terms are used in Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. Sec. 4321 et seq. No federal agency is preparing an environmental impact statement with respect to this matter.

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**SIGNATURES**

Pursuant to the requirements of the Public Utility Holding Company Act of 1935, each of the Applicants has duly caused this Application to be signed on its behalf by the undersigned thereunto duly authorized.

Date: December 29, 2003

E.ON AG

By: /s/ ULRICH HUEPPE

Name: Ulrich Hueppe  
Title: Executive Vice President Legal Affairs  
and General Counsel

By: /s/ RAINER LIESEN

Name: Rainer Liesen  
Title: Corporate Attorney  
General Legal Affairs

E.ON US INVESTMENTS CORP.

By: /s/ JOHN R. MCCALL

Name: John R. McCall  
Title: Chief Executive Officer and President

LG&E ENERGY CORP.

By: /s/ JOHN R. MCCALL

Name: John R. McCall

Title: Executive Vice President, General  
Counsel and Corporate Secretary

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