

7. The terms of the Loan and its repayment (the Repayments) will be set forth in a written agreement between the Trustee and the Employer (the New Agreement). Under the New Agreement, the Employer proposes to make the Loan in the amount remaining in the Segregated Fund as of the date of the Loan. The amount remaining in the Segregated Fund as of the date of the Loan will represent the GAC's accumulated book value as of the date of the Conservatorship, i.e., \$4,173,231, reduced by the sum of the total Rehab Payments and Initial Loans made as of the Loan date. Accordingly, the Employer estimates that the Loan will be in the amount of approximately \$600,000. The Employer represents that after the exemption proposed herein is final, if granted, and the New Agreement has been approved by the Internal Revenue Service<sup>10</sup>, the Employer will make the Loan to the Plan and will then exercise its powers under the Plan to close the Segregated Fund. Upon closing the Segregated Fund, all Accounts which remained invested in that Fund will be transferred back to the F.I. Fund, and the Employer will announce to Plan participants the availability of the Loan funds to effect all Withdrawal Events with respect to amounts previously frozen in the Segregated Fund. The Employer and the Trustee represent that the Plan's participants will benefit from the proposed Loan because it will ensure that the participants receive 100% of the Conservatorship-date value of their Accounts invested in the GAC and such amounts will be available as soon as approval is received from the Internal Revenue Service and the Department.<sup>11</sup>

8. The New Agreement provides for repayment of the Loan (the Repayment), but no interest will be paid on the principal amount of the Loan. Under the New Agreement, Repayment is limited to amounts, if any, paid to the Plan by or on behalf of ELIC, or its successor, or any other responsible third parties making payment with respect to ELIC's obligations under the GAC (the GAC Proceeds). No other assets of the Plan will be available for repayment of the Loan. If the GAC Proceeds are not sufficient to fully repay the Loan, the New Agreement provides that the

Employer will have no recourse against the Plan, or against any participants or beneficiaries of the Plan, for the unpaid amount. To the extent the Plan receives GAC proceeds in excess of the total amount of the Loan, such additional amounts will be retained by the Trust and allocated among the accounts of the Plans' participants.

9. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (1) The transaction will restore the Plan's ability to fund Withdrawal Events with respect to Accounts invested in the GAC; (2) The Plan will not incur any expenses or pay any interest with respect to the transaction; (3) Repayment of the Loan will be made only from GAC Proceeds paid to the Plan; (4) If the GAC Proceeds are not sufficient to fully repay the Loan, the Employer will have no recourse against the Plan, or against any participants or beneficiaries of the Plan, for the unpaid amount; and (5) Repayment of the Loan will be waived with respect to the amount by which the Loan exceeds the GAC Proceeds.

**FOR FURTHER INFORMATION CONTACT:** Ronald Willett of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

**Employees' Thrift Plan of Columbia Gas System (the Plan), Located in Wilmington, DE**

[Application No. D-09959]

**Proposed Exemption**

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). If the exemption is granted the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to (1) the proposed loan of funds (the Loan) to the Plan by The Columbia Gas System, Inc. (the Employer), the sponsor of the Plan, and its wholly-owned subsidiary, Columbia Gas Transmission Corporation (the Subsidiary), with respect to the Guaranteed Investment Contract No. 61969 (the GIC) issued by Confederation Life Insurance Company of Canada (Confederation); and (2) the potential repayment by the Plan of the Loan upon the receipt by the Plan of payments under the GIC; provided the following conditions are satisfied: (a) No interest and/or expenses are paid by the Plan in

connection with the Loan; (b) all the terms and conditions of the proposed Loan are no less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party; (c) the Loan will be no less than the accumulated book value of the GIC as of August 12, 1994; (d) the repayment of the Loan will not exceed the total amount of the Loan; (e) the repayment of the Loan by the Plan will be restricted to funds paid to the Plan under the GIC by Confederation, or State Guaranty Funds, or other third-party sources; (f) the repayment of the Loan is waived to the extent the Loan exceeds the proceeds the Plan receives from the GIC; and (g) any proceeds or future interest credited under the GIC after August 12, 1994, in accordance with the Rehabilitation Plan by the State of Michigan, will be allocated and disbursed to the affected participants of the Plan.

**Summary of Facts and Representations**

1. The Employer is a Delaware corporation with its principal offices located in Wilmington, Delaware. It is a public utility holding company with 15 subsidiaries primarily engaged in the distribution, transmission, and production of natural gas in the Midwest, Southeast, and Mid-Atlantic sections of the country and with production facilities in Texas and West Virginia.

The Employer is also a publicly held corporation with its securities traded on the New York Stock Exchange. For the fiscal year ending September 30, 1994, it had revenues of approximately \$3.1 billion.

The Employer and all its subsidiaries are participating employers in the Plan.

2. The Plan is a defined contribution plan with an employer-matching funding feature. There are provisions in the Plan for individual accounts and participant-directed investments of assets. The Plan has been qualified pursuant to the requirements of sections 401(a) and 401(k) of the Code. There are approximately 9,200 participants in the Plan and \$341.9 million in total assets, as of December 31, 1994.

On October 1, 1989, Bankers Trust Company of New York, New York became trustee of all of the assets of the Plan. On October 17, 1991, the Fidelity Bank, N.A., located in Philadelphia, Pennsylvania became trustee of Plan assets that are invested in common stock issued by the Employer and held in the Columbia Gas System Stock Fund (the Stock Fund) of the Plan. As of December 31, 1994, the Stock Fund had an aggregate fair market value of \$155.4 million and represented approximately

<sup>10</sup> Internal Revenue Procedure 92-16 provides for a temporary closing agreement program to settle certain tax liabilities that arise out of transactions between an employee-sponsor and the trust of a qualified defined contribution plan.

<sup>11</sup> The Department notes that the exemption, if granted, will not affect the rights of any participant or beneficiary with respect to any civil action against Plan fiduciaries for breaches of section 404 of ERISA in connection with any aspect of the GAC transactions.