

SECURITIES AND EXCHANGE COMMISSION**[Release No. IC-24387; File No. 812-11910]****The Penn Mutual Life Insurance Company, et al.; Notice of Application**

April 11, 2000.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").**ACTION:** Notice of application for an order pursuant to Section 26(b) of the Investment Company Act of 1940, as amended (the "1940 Act") approving certain substitutions of securities, and pursuant to Section 17(b) of the 1940 Act exempting related transactions from Section 17(a) of the 1940 Act.

Summary of Application: Applicants request an order approving the substitutions of shares of four new investment portfolios ("New Funds") of Penn Series Funds, Inc. ("Penn Series") for shares of certain unaffiliated registered management investment companies ("Replaced Funds") currently serving as investment options for certain variable annuity contracts and variable life insurance policies, and to permit certain in-kind redemptions of portfolio securities in connection with the substitutes ("Substitutions").

Applicants: The Penn Mutual Life Insurance Company ("Penn Mutual Life"), The Penn Annuity and Insurance Company ("PIA"), Penn Mutual Variable Annuity Account III ("Variable Annuity Account III"), Penn Mutual Variable Life Account I ("Variable Life Account I"), PIA Variable Annuity Account I ("Variable Annuity Account I," and together with Variable Annuity Account III and Variable Life Account I, "the Separate Accounts"), and Independence Capital Management, Inc. ("ICMI") (collectively, "Applicants").

Filing Date: The application was filed on December 23, 1999, and amended and restated on April 10, 2000.

Hearing or Notification Of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 1, 2000, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request

notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Applicants: Franklin L. Best, Esq., Managing Corporate Director, The Penn Mutual Life Insurance Company, 600 Dresher Road, Horsham, PA 19044. Copies to C. Ronald Rubley, Esq., 1701 Market Street, Philadelphia, PA 19103 and Edward J. Meehan, Jr., Esq., 1701 Market Street, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: Paul G. Cellupica, Senior Counsel, or Keith E. Carpenter, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942-0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549-0102 (202-942-8090).

Applicants' Representations

1. Penn Mutual Life is a mutual life insurance company organized under the laws of Pennsylvania in 1847. It provides life insurance, annuity, and investment products. PIA, a wholly owned subsidiary of Penn Mutual Life, is a Delaware stock insurance company established in 1994.

2. Variable Annuity Account I, sponsored by PIA, is registered under the 1940 Act as a unit investment trust. Variable Annuity Account I serves as a funding vehicle for variable annuity contracts issued by PIA. Variable Annuity Account III, sponsored by Penn Mutual Life, is a unit investment trust registered under the 1940 Act. Variable Annuity Account III serves as a funding vehicle for variable annuity contracts issued by Penn Mutual Life. Variable Life Account I, sponsored by Penn Mutual Life, is a unit investment trust registered under the 1940 Act. Variable Life Account III serves as a funding vehicle for variable life insurance contracts issued by Penn Mutual Life.

3. Variable Annuity Account I and Variable Annuity Account III serves as the funding vehicle for variable annuity contracts ("VA Contracts") issued by Penn Mutual Life and PIA. Variable Life Account I serves as the funding vehicle for variable universal life contracts ("VUL Contracts") issued by Penn Mutual Life. Each of the VA Contracts and VUL Contracts funded by the Separate Accounts (collectively, "Variable Products") is registered with the Commission under the Securities Act of 1933, as amended, and is offered

exclusively by means of a prospectus which describes the applicable terms and conditions of each such contract. The Separate Accounts are each divided into subaccounts (each a "Subaccount") and each Subaccount invests exclusively in shares of funds of registered management investment companies ("Existing Funds") currently available to the holders of the contracts ("Contractholders").

4. The Existing funds consists of 18 separate investment options, which contain certain investment portfolios issued by Penn Series, Neuberger Berman Advisers Management Trust ("Neuberger & Berman Portfolios"), Variable Insurance Products Fund and Variable Insurance Products Fund II ("Fidelity Portfolios"), American Century Variable Portfolios Inc. ("American Century Portfolio") and Morgan Stanley Dean Witter Universal Funds, Inc. ("Morgan Stanley Portfolio"). Each of the Existing Funds is registered as a management investment company under the 1940 Act. Not all of the Existing Funds are involved in the Substitutions. The application contemplates that the American Century Portfolio, two of the three Neuberger & Berman Portfolios and one of the four Fidelity Portfolios will be replaced by substantially similar funds.

5. Penn Series is registered under the 1940 Act as an open-end investment management series. Currently, Penn Series has nine investment portfolios ("Current Penn Funds"). Shares of the Current Penn Funds are offered only to Penn Mutual Life and PIA (Penn Mutual Life and PIA hereinafter referred to collectively as "Penn Mutual") for the Variable Products.

6. ICMI, a wholly owned subsidiary of Penn Mutual Life, is a registered investment adviser under the Investment Advisers Act of 1940. ICMI provides investment management services to each of the Current Penn Funds.

7. Penn Series is organizing four New Funds. Each of the New Funds will have the same or substantially the same investment objectives and policies of one of the Replaced Funds involved in the Substitutions. Overall investment management services will be provided to each of the newly organized New Funds by ICMI pursuant to an investment advisory agreement between ICMI and Penn Series ("ICMI Advisory Agreement"). Under the ICMI Advisory Agreement, ICMI will be responsible for the management of the business and affairs of each of the New Funds, subject to the supervision of the Board of Directors of Penn Series. ICMI will also

be authorized to exercise full investment discretion and make all determinations with respect to the investment of the assets of the respective New Funds, but may, at its own cost and expense, retain sub-advisers ("Sub-Advisers") to provide day-to-day portfolio management to each of the New Funds. For its services under the ICMI Advisory Agreement, ICMI will receive a fee from each of the New Funds. ICMI, in turn, will pay the fees and expenses of any Sub-Adviser retained by ICMI or any of the New Funds. It is currently anticipated that ICMI will employ Sub-Advisers for three of the New Funds and directly manage the assets of the fourth New Fund.

8. Penn Series and ICMI have applied for exemptive relief from Section 15(a) of the 1940 Act ("Manager of Managers Order"). The Manager of Managers Order would permit ICMI, as the investment adviser for the existing series of Penn Series to replace any Sub-

Adviser or to employ a new Sub-Adviser, without submitting such actions for the approval of shareholders of the affected series. Following the Substitutions, Applicants anticipate that each of the New Funds will be entitled to rely on the Manager of Managers Order. As a condition to the application, however, Applicants state that they will take no action in reliance on the Manager of Managers Order with respect to any one of the New Funds unless and until the operation of that Fund in the manner contemplated by the Manager of Managers Order is approved, following the Substitutions, by the holders of a majority of the outstanding shares of that Fund within the meaning of the 1940 Act.

9. The purpose of the Substitutions is to provide Contractholders with improved investment options through enhanced investment performance and reduced expense ratios of investment options available under the Variable Products. The Substitutions are the first

step in establishing a manager of managers structure that will provide Applicants with increased ability to affect the administration and management of the investment options offered through Variable Products. As the investment manager of each of the New Funds, ICMI will be in a position to oversee the operations of the New Funds, including the performance and portfolio management. Applicants represent that the manager of managers structure will give Applicants the means to more directly monitor the overall manner in which investment options available through the Variable Products are managed and administered.

10. Applicants seek relief for four Substitutions. The following table summarizes the proposed Substitutions. The investment objectives of Contractholders with interests in any Subaccount of the Separate Account ("Affected Contractholder") will not be materially affected by the Substitutions.

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	Total Net Assets	Replaced Fund			New Fund		
		Actual Advisory Fees	Contractual Advisory Fee	Actual Expense Ratio	Estimated Advisory Fees	Contractual Advisory Fee	Estimated Expense Ratio
Substitution No. 1	\$ 56,263,781	0.51%	0.55% of the first \$250 million of average net assets, 0.525% of the next \$250 million, 0.50% of the next \$250 million, 0.475% of the next \$250 million, 0.45% of the next \$500 million and 0.425% of average daily net assets in excess of \$1.5 billion.	0.87%	0.55%	0.55% of the first \$250 million of average net assets, 0.525% of the next \$250 million, 0.50% of the next \$250 million, 0.475% of the next \$250 million, 0.45% of the next \$500 million and 0.425% of average daily net assets in excess of \$1.5 billion.	0.86%
Substitution No. 2	\$ 12,834,717	0.25%	0.25% of the first \$500 million, 0.225% of the next \$500 million, 0.20% of the next \$500 million, 0.175% of the next \$500 million and 0.15% of average daily net assets in excess of \$2 billion	0.76%	0.30%	0.30%	0.56%
Substitution No. 3	\$190,005,728	0.24% ⁽¹⁾	0.24%	0.28% ⁽²⁾	0.07% ⁽¹⁾	0.07%	0.25% ⁽²⁾
Substitution No. 4	\$ 35,611,383	1.00%	1.00% of the first \$500 million, 0.95% of the next \$500 million and 0.90% over \$1 billion	1.00%	0.70%	0.70%	1.00%

⁽¹⁾ Advisory Fees are before any expense waiver reductions.

⁽²⁾ Expense Ratio includes fee waivers of 0.06.

11. Applicants represent that the investment objectives of each New Fund will be the same as, or substantially similar to, the investment objectives of the corresponding fund that the New Fund will replace. The investment strategies and policies of the Penn Series Limited Maturity Bond Fund and the Penn Series Index 500 Fund will be substantially the same or substantially similar to the investment strategies and policies of the Neuberger Berman Limited Maturity Bond Portfolio and the Fidelity Investments' Index 500 Portfolio. The investment strategies and policies of the Penn Series Mid Cap Value Fund and the Penn Series Mid Cap Growth Fund may differ from the investment strategies and policies of Neuberger Berman Partners Fund and the American Century Capital Appreciation Portfolio respectively. However, the investment strategies and policies of these New Funds will be

sufficiently similar to their corresponding Replaced Funds so that the Affected Contractholders may continue to seek to achieve their investment objectives in the substituted funds.

12. In Substitution No. 1, ICMI will serve as investment adviser and Neuberger Berman Investment Management Inc. ("Neuberger Berman") will continue day-to-day portfolio management as Sub-Adviser to the New Fund. In Substitutions Nos. 2, 3, and 4, the New Fund will, following the substitutions, be advised by investment advisory organizations different from the organizations that currently manage the Replaced Funds. In Substitution No. 2, ICMI will serve as the investment adviser and investment manager of the New Fund. Applicants believe that given the below average investment performance for the Neuberger Berman Limited Maturity Bond Portfolio, ICMI

will achieve improved investment results for Contractholders. In Substitution No. 3, ICMI will serve as the investment adviser and Wells Capital Management Inc. will serve as Sub-Adviser to the Penn Series Index 500 Fund. As in the case of the Fidelity Investment's Index 500 Portfolio, investments of Penn Series Index 500 Fund are expected to approximate the relative composition of the securities in the S&P 500. In Substitution No. 4, the day-to-day decisions for Penn Series Mid Cap Growth Fund will be the responsibility of Turner Investment Partners, Inc. ("TIP") as Sub-Adviser. Applicants believe that TIP is in a position to achieve improved investment results for Contractholders who currently have contract values allocated to the corresponding Replaced Fund.

13. Immediately following the Substitutions, the expense ratios of the

New Funds will not exceed the expense ratios of the Replaced Funds. The following table shows the total assets in each of the Replaced Funds at December 31, 1999 that are attributable to the Variable Products, as well as other non-registered insurance products, and

compares the advisory fees and the expense ratios of the Replaced Funds for the six months ended December 31, 1999, with the pro forma advisory fees and expense ratios of the New Funds for the same periods. (Pro forma expense ratios of the New Funds are based on

assets in the Replaced Funds attributable to the Variable Products and other non-registered insurance products, and estimates of expenses associated with those assets had they been invested in the New Funds during the periods).

<u>New Fund</u>				<u>Replaced Fund</u>		
<u>No.</u>	<u>Name</u>	<u>Investment Objective</u>	<u>Investment Manager</u>	<u>Name</u>	<u>Investment Objective</u>	<u>Investment Manager</u>
1.	Penn Series Mid Cap Value Fund	Capital growth by investing in common stocks of medium capitalization companies.	Neuberger Berman Management Inc.*	Neuberger Berman Partners Portfolio	Capital growth by investing in common stocks of medium-to-large capitalization established companies.	Neuberger Berman Management Inc.
2.	Penn Series Limited Maturity Bond Fund	Highest current income consistent with low risk to principal and liquidity; secondarily, total return by investing in short to intermediate term debt securities, primarily investment grade.	ICMI	Neuberger Berman Limited Maturity Bond Portfolio	Highest current income consistent with low risk to principal and liquidity; secondarily, total return by investing in short to intermediate term debt securities, primarily investment grade.	Neuberger Berman Management Inc.
3.	Penn Series Index 500 Fund	Total return which corresponds to that of the Standard & Poor's Composite Index of 500 stocks.	Wells Capital Management, Inc.*	Fidelity Investments' Index 500 Portfolio	Total return which corresponds to that of the Standard & Poor's Composite Index of 500 stocks.	Fidelity Management and Research Corporation**
4.	Penn Series Mid Cap Growth Fund	Capital growth by investing primarily in common stocks of mid capitalization growth companies.	Turner Investment Partners, Inc.*	American Century Capital Appreciation Portfolio	Capital growth by investing primarily in common stocks with better than average prospects for appreciation.	American Century Investment Management, Inc.

* Sub-Adviser to ICMI.

** Sub-advised by Bankers Trust Company.

14. Applicants expect to effect the Substitutions on or about May 1, 2000 in coordination with the distribution of annual prospectuses to Contractholders. As of the effective date of the Substitutions ("Effective Date"), shares of the Replaced Funds held by each of the Subaccounts of Applicant Separate Accounts will be presented to the Replaced Funds for redemption. The proceeds of such redemptions, which

may be effected through cash or "in-kind" transactions, will then be used to purchase the appropriate number of shares of the corresponding New Funds. The Substitutions will take place at relative net asset values, with no change in the contract value of any Affected Contractholder, and all redemptions of shares of the Replaced Funds and purchases of shares of the corresponding New Funds will be

effected in accordance with Rule 22c-1 under the 1940 Act.

15. Penn Mutual will bear the costs of the Substitutions, including any legal and/or accounting fees relating to them. Affected Contractholders will not incur any additional fees or charges as a result of the Substitutions; no current fees or charges applicable under any of the Variable Products will be increased as a result of the Substitutions; the rights of

Affected Contractholder under any of the Variable Products, and the obligations of Penn Mutual under the Variable Products will not diminish in any way.

16. Applicants state that as soon as practicable after filing the Application, a supplement to each of the prospectuses relating to the Variable Products will be filed with the Commission. These supplements ("Product Supplements") will reflect all material information relating to the Substitutions and the New Funds, including the identity of the Replaced Funds, a description of the New Funds and their respective investment objectives and policies, the Sub-Adviser for each of the New Funds, fees and expenses associated with the New Funds, and the impact that the Substitution will have on fees and expenses.

17. Following the date on which the notice of the Application is published in the **Federal Register**, but before the Effective Date, Penn Mutual will send to Affected Contractholders a notice ("Pre-Substitution Notice"), which will include the Product Supplements. The Pre-Substitution Notice will inform Affected Contractholders of: (a) The Effective Date of the Substitutions; (b) the right of each Affected Contractholder, under the VUL and VA Contracts, to transfer contract values among the various Subaccounts; and (c) the fact that any such transfer that involves a transfer from any of the Replaced Funds will not be subject to any administrative charge and will not count as one of the "free transfers" to which Affected Contractholders may otherwise be entitled.

18. Within five days after the Effective Date, Affected Contractholders will be sent written confirmation ("Confirmation Notice") of the substitution transactions. The Confirmation Notice will: (a) Confirm that the Substitutions were carried out; (b) reiterate that each Affected Contractholder may make one transfer of all of the contract value or cash value under their Variable Products that is invested in any one of the Subaccounts that were affected by the Substitutions to any other Subaccount available under their Variable Products without such transfer being subject to any administrative charge, or being counted as one of the "free transfers" (or one of the limited number of transfers) to which Affected Contractholders may be entitled under their Variable Products; and (c) state that Penn Mutual will not exercise any rights reserved by it under the Variable Products to impose additional restrictions on transfers until

at least 30 days after the Effective Date. The Confirmation Notice will be accompanied by a then-current prospectus for the relevant Variable Product, reflecting the inclusion of the New Funds, as well as an amended prospectus for the New Funds.

19. The in-kind redemption proceeds will consist of the same securities that are currently held by the Replaced Funds. Redemptions in-kind will be done in a manner consistent with the investment objectives, policies and diversification requirements of the respective New Funds. Further, Applicants represent that the in-kind redemptions for each of the New Funds will be reviewed by the Sub-Adviser responsible for making day-to-day investment decisions for that Portfolio to assure that the investment objective, investment policies and diversification requirements set forth in the registration statement relating to the relevant New Fund are satisfied. In addition, the in-kind asset transfers will be valued in the manner that is consistent with the valuation procedures of both the Replaced Fund and the relevant New Fund. Applications state that any inconsistencies in valuation procedures between the Replaced Fund and the relevant New Fund will be reconciled so that the redeeming and purchasing values are the same. In addition, and consistent with Rule 17a-7 under the 1940 Act, no brokerage commissions, fees or other remuneration will be paid in connection with the in-kind transactions.

20. The Variable Products expressly reserve to Penn Mutual the right, subject to compliance with applicable law, to substitute shares of one open-end investment company for shares of another open-end investment company held by a Separate Account.

Applicant's Legal Analysis

1. Section 26(b) of the 1940 Act provides that it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission approves such substitution. Section 26(b) further provides that the Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

2. Applicants request an order pursuant to Section 26(b) of the 1940 Act approving the substitutions and related transactions. Applicants assert that the purposes, terms, and conditions

of the Substitutions are consistent with the protection of investors and the purposes fairly intended by the 1940 Act. Applicants further assert that the Substitutions will not result in the type of forced redemption that Section 26(b) was designed to guard against.

3. Applicants maintain that the substitutions do not represent the type of transaction that Section 26(b) was designed to prevent for the following reasons: (a) the Substitutions are designed to give Penn Mutual more control over investment products it offers to the investing and insurance purchasing public; (b) Contractholders involved in Substitution Nos. 1, 3 and 4 will have the benefit of ICM's oversight of the Sub-Advisers; and (c) the procedures that Applicants will follow in the Substitutions will give Affected Contractholders ample notice of the Substitutions and any potential impact. Affected Contractholders will have the opportunity to transfer their investments from one of the Replaced Funds in anticipation of the Substitutions, or from the New Funds following the Substitution. In either case, Applicants represent that no administrative fee or transfer charge will be assessed. In light of the fact that only four of the 18 investment options currently available to Affected Contractholders will be involved in the Substitutions, Applicants believe that this ability to "opt out" of any Substitution affords each Affected Contractholder an effective choice of investments.

4. Section 17(a)(1) of the 1940 Act prohibits any affiliated person of a registered investment company, or any affiliate of such affiliated person, from selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits any affiliated person from purchasing any security or other property from such registered investment company.

5. Applicants request an order pursuant to Section 17(b) of the 1940 Act exempting the in-kind redemptions and purchases from the provisions of Section 17(a). Section 17(b) of the 1940 Act provides that the Commission may grant an order exempting a proposed transaction from Section 17(a) if evidence establishes that: (a) The terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed

transaction is consistent with the general purposes of the 1940 Act.

6. Applicants represent that, if effected in accordance with the procedures described in the Application and summarized herein, the Substitutions are consistent with the general purposes of the 1940 Act and do not present any of the conditions or abuses that the 1940 Act was designed to prevent. Applicants state that the consideration to be paid by each New Fund, and received by each of the Replaced Funds, will be fair and reasonable and will not involve overreaching because the Substitutions will not result in the dilution of the interests of any Affected Contractholders and will not effect any change in economic interest, contract value or the dollar value of any Variable Products held by an Affected Contractholder. The in-kind redemptions and purchases will be done at values consistent with the policies of both the Replaced Funds and the New Funds and will satisfy the procedural safeguards of Rule 17a-7. Both ICMI and the Sub-Adviser of a New Fund will review all the asset transfers to assure that the assets meet the objectives of a New Fund and that they are valued under the appropriate valuation procedures of the Replaced Fund and such New Fund. The in-kind redemption proceeds will consist of the same securities that are currently held by the Replaced Funds. Applicants represent that the transactions are consistent with the policies of each investment company involved and the general purposes of the 1940 Act, and comply with the requirements of Section 17(b).

7. Applicants state that the facts and circumstances in the application are sufficient to assure that the Substitutions will be carried out in a manner that is consistent with Sections 17(b) and 26(b) of the 1940 Act and that the terms and conditions to which Applicants will be subject hereby are consistent with orders the Commission has issued in the past under similar circumstances.

Applicants' Terms

The significant terms of the substitutions described in the application include:

1. The New Funds have objectives and policies that are substantially the same or substantially similar to the objectives and policies of the Replaced Funds so that the objectives of the Affected Contractholders can continue to be met.

2. The expense ratios of the New Funds will, immediately following the

Substitution, not exceed the expense ratios of the Replaced Funds. In the event that the expense ratio of a New Fund exceeds that of its corresponding Replaced Fund, Penn Mutual will waive its fees and/or reimburse expenses such that its expense ratio does not exceed that of its corresponding Replaced Fund's expense ratio. Penn Mutual will continue any such fee waivers and/or reimbursements, as necessary, until April 30, 2001, except that in the case of Substitution No. 2 (of the Penn Series Limited Maturity Bond Fund for the Neuberger Berman Limited Maturity Bond Portfolio), Penn Mutual will continue any such fee waiver and/or expense reimbursements, as necessary, until April 30, 2003.

3. Affected Contractholders may, under the terms of the Variable Products, transfer assets from any Subaccount of Applicant Separate Accounts to any other Subaccount available under the Variable Product. Any such transfer that involves a transfer from any of the Replaced Funds, from the date of the notice that the Replaced Funds will be substituted through a date at least 30 days following the Effective Date, will not be subject to any administrative charge, and will not count as one of any "free transfers" to which Affected Contractholder may otherwise be entitled. Affected Contractholders may also withdraw amounts under any contract held, or terminate their interest in any such contract, in accordance with the terms and conditions of any such contract, including but not limited to payment of any applicable surrender charge.

4. The Substitutions will be effected at the net asset value of the respective shares in conformity with Section 22(c) of the 1940 Act and Rule 22c-1 thereunder, without the imposition of any transfer or similar charge by Applicants.

5. The Substitutions will take place at relative net asset value without change in the amount or value of any Variable Products held by Affected Contractholders. Affected Contractholders will not incur any fees or charges as a result of the Substitutions, nor will their rights or the obligations of Penn Mutual under such Variable Products be altered in any way. All expenses incurred in connection with the Substitutions, including legal, accounting and other fees and expenses, will be borne by Applicants, other than Separate Accounts.

6. Redemptions in kind will be handled in a manner consistent with the investment objectives, policies and diversification requirements of the New Fund. Consistent with Rule 17a-7(d)

under the 1940 Act, no brokerage commissions, fees (except customary transfer fees) or other remuneration will be paid by the Replaced Funds or New Funds or Affected Contractholders in connection with the in-kind transactions. In addition, the in-kind asset transfers will be valued in the manner that is consistent with the valuation procedures of both the Replaced Fund and the relevant New Funds.

7. The Substitutions will not be counted as transfers in determining any limit on the total number of transfers that Affected Contractholders are permitted to make under the Variable Products.

8. The Substitutions will not alter in any way the annuity, life insurance, or other benefits afforded under the Variable Products held by any Affected Contractholders.

9. Each of the New Funds may rely upon a Commission order expected to be issued to certain affiliates of Penn Series. Applicants will take no action in reliance on the Manager of Managers Order with respect to any one of the New Funds unless and until the operation of that portfolio in the manner contemplated by the Manager of Managers Order is approved by the holders of a majority of the outstanding shares of that portfolio within the meaning of the 1940 Act by vote obtained following the Substitution.

Applicants' Conditions

Applicants state that they will not complete the Substitutions and related transactions described in this Application (other than the mailing of the Pre-Substitution Notices) unless all of the following conditions are met:

1. The Commission shall have issued an order (a) approving the Substitutions under Section 26(b) of the 1940 Act, and (b) exempting the in-kind redemptions from the provisions of Section 17(a) of the 1940 Act as necessary to carry out the transactions described in this Application.

2. Each Affected Contractholder will have been sent a Pre-Substitution Notice, which will include the Prospectus Supplements and will inform Affected Contractholders of: (a) The Effective Date of the Substitutions; (b) the right of each Affected Contractholder, under the Variable Products, to transfer contract values among the various Subaccounts; and (c) the fact that any such transfer that involves a transfer from any of the Replaced Funds will not be subject to any administrative charge and will not count as one of any "free transfers" to

which Affected Contractholders may otherwise be entitled.

3. Each Affected Contractholder will receive, within five days following the Effective Date of Substitutions, written notice ("Confirmation Notice"). The Confirmation Notice will: (a) Confirm that the Substitutions were carried out; (b) reiterate that each Affected Contractholder may make one transfer to all of the contract value or cash value under their Variable Product that is invested in any one of the Subaccounts that were affected by the Substitutions to any other Subaccount available under their Variable Product without such transfer being subject to any administrative charge, or being counted as one of any "free transfers" (or one of the limited number of transfers) to which Affected Contractholders may be entitled under their Variable Product; and (c) state that Penn Mutual will not exercise any rights reserved by it under the Variable Products to impose additional restrictions on transfers until at least 30 days after the Effective Date. The Confirmation Notice will be accompanied by a then-current prospectus for the relevant Variable Product, reflecting the inclusion of the New Funds, as well as an amended prospectus for the New Funds.

4. Penn Mutual shall have satisfied itself, that: (a) The Variable Products allow the substitution of investments in the manner contemplated by the Substitutions and related transactions described herein; (b) the transactions can be consummated as described in this Application under the applicable insurance laws; and (c) that any regulatory requirements in each jurisdiction where the Variable Products are qualified for sale, have been complied with to the extent necessary to complete the transactions.

Conclusion

Applicants assert that, for the reasons summarized above, the requested order approving the substitutions and related transactions involving in-kind transactions should be granted.

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

Jonathan G. Katz,
Secretary.

[FR Doc. 00-9398 Filed 4-12-00; 10:11 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27162]

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

April 7, 2000.

Notice is hereby given that the following filings(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. 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 amendment(s) is/are available for public inspection through the Commission's Branch 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 May 2, 2000, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, 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 the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts 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 May 2, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Unitil Corporation (70-8050)

Unitil Corporation ("Unitil"), 6 Liberty Lane West, Hampton, New Hampshire 03842-1720, a registered holding company, has filed a post-effective amendment under sections 6(a) and 7 of the Act to a declaration previously filed under the Act.

By orders dated November 16, 1992 and February 7, 1997 (NCAR Nos. 25677 and 26663) ("Orders"), Unitil has authorized, among other things, to issue and sell up to 253,654 shares ("DRIP Shares") of its no par value common stock ("Common Stock") under its dividend reinvestment and stock purchase plan ("DRIP Plan"). As of February 1, 2000, 15,030 of the authorized DRIP Shares remained unsold. The Orders also authorized Unitil to issue and sell up to 229,636 shares ("401(k) Shares" and, together with DRIP Shares, "Authorized

Shares")¹ of Common Stock under its tax-deferred savings and investment plan ("401(k) Plan"). As of February 1, 2000, 44,393 of the authorized 401(k) Shares were unsold.

In addition to the Authorized Shares, Unitil now proposes to issue and sell up to 200,000 shares of its Common Stock under its DRIP Plan and up to 150,000 shares under its 401(k) Plan. Shares available for issuance under each of these plans may come from authorized but unissued Common Stock or from Common Stock purchased by Unitil on the open market.

Unitil Corporation (70-9633)

Unitil Corporation ("Unitil"), a registered holding company under the Act, and its subsidiary companies, Concord Electric Company, Exeter & Hampton Electric Company, Fitchburg Gas and Electric Light Company ("Fitchburg"), Unitil Power Corp., Unitil Realty Corp., Unitil Resources, Inc. and Unitil Service Corp. ("Unitil Service") (collectively, "Subsidiaries" and, together with Unitil, "Applicants"), all at 6 Liberty Lane West, Hampton, New Hampshire 03842, have filed an application-declaration under sections 6(b), 9(a), 10 and 12(b) of the Act and rules 43 and 45 under the Act.

By order dated June 30, 1997 (HCAR No. 26737), Applicants were authorized to make unsecured short-term borrowings and to operate a system money pool ("Money Pool") through June 30, 2000. The Applicants now request authority to make additional short-term borrowings and extend the operation of the Money Pool through June 30, 2003 ("Authorization Period").

Specifically, Unitil requests authority to incur short-term borrowings from banks in an aggregate amount that will not exceed \$25 million outstanding. In addition, Fitchburg requests authority to incur short-term borrowings from third parties and the other Applicants, and Unitil and the other Subsidiaries request authority to lend funds to Fitchburg under the Money Pool.² Borrowings by Fitchburg under the Money Pool and its short-term borrowings from banks would not exceed \$20 million at any one time outstanding.

Unitil's existing³ and proposed borrowing arrangements will provide for borrowings at (1) "base" or "prime"

¹ The number of Authorized Shares was adjusted to reflect a two-for-one stock split that occurred on December 11, 1992.

² Applicants claim that borrowings by the Subsidiaries other than Fitchburg are exempt from Commission review under rule 52 under the Act.

³ As of February 17, 2000, Unitil had three unsecured lines of credit totaling \$23 million.