

AGL RESOURCES INC
Form S-8
August 02, 2006

As filed with the Securities and Exchange Commission on August 2, 2006.
File No. 333-

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-8
REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933

AGL RESOURCES INC.

(Exact name of Registrant as specified in its charter)

Georgia

(State or other jurisdiction of incorporation or
organization)

58-2210952

(I.R.S. Employer Identification Number)

Ten Peachtree Place, N.E.

Atlanta, Georgia 30309

(Address, including zip code, of principal executive offices)

AGL Resources Inc. 2006 Non-Employee Directors Equity Compensation Plan

(Full title of the plan)

Paul R. Shlanta

**Executive Vice President, General Counsel and
Chief Ethics and Compliance Officer**

AGL Resources Inc.

Ten Peachtree Place, N.E.

Atlanta, Georgia 30309

(404) 584-4000

(Name, address and telephone number of agent for service)

CALCULATION OF REGISTRATION FEE

| Title of Securities to be Registered | Amount to be Registered | Proposed Maximum Offering Price Per Share | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|--------------------------------------|-------------------------|---|---|----------------------------|
| Common Stock, \$5.00 par value | 200,000 | \$38.58 (1) | \$7,716,000 (1) | \$825.62 |

(1) Determined in accordance with Rule 457(h), based on the average of the high and low prices of the Registrant's Common Stock as reported on the New York Stock Exchange on July 26, 2006.

PART II INFORMATION REQUIRED IN REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

The following documents, previously filed by the Registrant with the Securities and Exchange Commission (the "Commission") pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act"), are incorporated herein by reference and deemed to be a part hereof from the date of the filing of such documents:

- (a) The Registrant's Annual Report on Form 10-K/A for the year ended December 31, 2005;
- (b) The Registrant's Quarterly Reports on Form 10-Q for the quarters ended March 31, 2006 and June 30, 2006;
- (c) The Registrant's Current Reports on Form 8-K filed with the SEC on January 3, February 7, February 24, March 8, May 8 (two reports) and June 30, 2006 ; and
- (d) The description of the Registrant's Common Stock contained in Item 4 of the Registrant's Registration Statement on Form 8-B (Registration No. 001-14174), filed under Section 12(b) of the Exchange Act, as declared effective by the Commission on March 12, 1996, and any amendment or report filed for the purpose of updating such description.

All reports and other documents subsequently filed by the Registrant pursuant to Section 13(a), 13(c), 14 and 15(d) of the Exchange Act, subsequent to the date hereof and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities that remain unsold, will be deemed incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents.

Any statement contained in a document incorporated by reference herein and filed prior to the filing hereof shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein modifies or supersedes such statement, and any statement contained herein or in any other document incorporated by reference herein shall be deemed to be modified or superseded for the purpose of this Registration Statement to the extent that a statement contained in any other subsequently filed document which is also incorporated herein by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 6. Indemnification of Directors and Officers

Section 14-2-202(b)(4) of the Georgia Business Corporation Code (the "Georgia Code") provides that a corporation's articles of incorporation may include a provision that eliminates or limits the personal liability of directors for monetary damages to the corporation or its shareholders for breach of the directors' duty of care and other duties as directors. However, Section 14-2-202(b)(4) of the Georgia Code does not permit a corporation to eliminate or limit the liability of a director for (i) a breach of duty involving appropriation of a business opportunity of the corporation; (ii) an act or omission that involves intentional misconduct or a knowing violation of law; (iii) any transaction from which the director received an improper personal benefit; or (iv) any payments of a dividend or any other type of distribution that is illegal under Section 14-2-832 of the Georgia Code. Additionally, Section 14-2-202(b)(4) of the Georgia Code does not eliminate or limit the rights of a corporation or any shareholder to seek an injunction or other non-monetary relief in the event of a breach of a director's fiduciary duty, and applies only to claims against a director arising out of his role as a director and does not relieve a director from liability arising from his role as an officer or in any other capacity. Article V of the Amended and Restated Articles of Incorporation of AGL Resources includes provisions

exculpating AGL Resources' directors from liability to the extent permitted by Section 14-2-202(b)(4) of the Georgia Code.

Section 14-2-851 of the Georgia Code authorizes a corporation to indemnify directors who are determined to have met the standard of conduct set forth in that section. However, Section 14-2-856(a) of the Georgia Code provides that, if authorized by its articles of incorporation, a corporation may indemnify its directors without regard to the limitations in other sections of the Georgia Code, including the limitation in Section 14-2-851 of the Georgia Code, which requires a determination that a director seeking indemnification must first be determined to have met the statutorily prescribed standard of conduct. Section 14-2-856(b), however, prohibits a corporation from indemnifying a director for liability incurred in a proceeding in which the director is adjudged liable or subjected to injunctive relief in favor of the corporation for any of the four acts from which a director cannot be exculpated from liability as provided in Section 14-2-202(b)(4) of the Georgia Code (which are outlined above).

Article VII, Section 7.01 of AGL Resources' Amended and Restated Articles of Incorporation specifies that each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, derivative, criminal, administrative or investigative, by reason of the fact that he, or a person of whom he is a legal representative, is or was a director, shall be indemnified and held harmless to the fullest extent authorized by the Georgia Code, as the same exists or may be amended in the future, if such amendment provides broader indemnification rights than previously permitted under the Georgia Code, against all expenses, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties, and amounts paid or to be paid in settlement) actually and reasonably incurred or suffered by such director in connection with the proceeding. The fullest extent that the Georgia Code authorizes a corporation to indemnify its directors is set forth in Section 14-2-856 of the Georgia Code.

The indemnification right specified in AGL Resources' Amended and Restated Articles of Incorporation will continue for a director who has ceased to be a director and shall inure to the benefit of the director's heirs, executors and administrators.

Article VII, Section 7.02 of AGL Resources' Amended and Restated Articles of Incorporation specifies that AGL Resources will pay for or reimburse the actual and reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if the director furnishes (i) a written affirmation of his good faith belief that his conduct does not constitute behavior of the kind set forth in Georgia Code Section 14-2-856(b) (as specified above) and (ii) a written undertaking, executed personally on his behalf, to repay any advances if it is ultimately determined that he is not entitled to indemnification for such expenses.

Section 2.15.1 of AGL Resources' bylaws specifies that in the case of actions brought by or in the right of AGL Resources, a director's right to indemnification shall be determined: (i) if there are two or more disinterested members of the board of directors, by the majority vote of a quorum of the disinterested members of the board of directors, or by a majority of the members of a committee of two or more disinterested members appointed by such a vote; (ii) by special legal counsel or (iii) by the shareholders, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested member of the board of directors may not be voted on the determination.

Section 7.1 of AGL Resources' bylaws states that AGL Resources will indemnify any officer who was or is made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, derivative, criminal, administrative or investigative, to the same extent as it is obligated to indemnify any director of AGL Resources, but without being subject to the same procedural conditions imposed for the indemnification of directors. AGL Resources may indemnify and advance expenses to an employee or agent who is not a director or officer to the extent that such indemnity or advance of expenses is consistent with public policy.

As authorized by Section 14-2-856(a) of the Georgia Code, AGL Resources has entered into director indemnification agreements with each of its directors who are not employees of AGL Resources to provide each such director

contractual rights to indemnification to the fullest extent permitted by the Georgia Code. The agreements also provide a contractual right to reimbursement and advancement of expenses.

AGL Resources' officers and directors are presently covered by insurance which (with certain exceptions and within certain limitations) indemnifies them against any losses or liabilities arising from any alleged "wrongful act," including any alleged breach of duty, neglect, error, misstatement, misleading statement, omissions or other act done or wrongfully attempted. AGL Resources pays the cost of such insurance as permitted by its bylaws and the laws of the State of Georgia.

Item 8. Exhibits

See the Exhibit Index which follows the signature page to this Registration Statement. The Exhibit Index is incorporated herein by reference.

Item 9. Undertakings

(a) Rule 415 Offering.

The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended (the "Securities Act");

(ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if this Registration Statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement; and

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) Filings Incorporating Subsequent Exchange Act Documents by Reference.

The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act that is incorporated by reference in this Registration Statement shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Request for Acceleration of Effective Date or Filing of Registration Statement Becoming Effective Upon Filing.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

(Signatures on following page)

SIGNATURES

The Registrant. Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Atlanta, State of Georgia, on August 1, 2006.

AGL RESOURCES INC.

By: /s/ John W. Somerhalder II
John W. Somerhalder II
President and Chief Executive Officer

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Andrew W. Evans and Paul R. Shlanta, and each of them, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments to this Registration Statement and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated as of August 1, 2006.

Signature Title

| | |
|---|---|
| <u>/s/ John W. Somerhalder II</u> John W. Somerhalder II | President and Chief Executive Officer (Principal Executive Officer) and Director |
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| <u>/s/ Andrew W. Evans</u> Andrew W. Evans | Executive Vice President and Chief Financial Officer (Principal Financial Officer) |
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| <u>/s/ Bryan E. Seas</u> Bryan E. Seas | Vice President, Controller and Chief Accounting Officer (Principal Accounting Officer) |
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| <u>/s/ D. Raymond Riddle</u> D. Raymond Riddle | Chairman of the Board |
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| <u>/s/ Thomas D. Bell, Jr.</u> Thomas D. Bell, Jr. | Director |
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/s/ Charles R. Crisp Director
Charles R. Crisp

/s/ Michael J. Durham Director
Michael J. Durham

/s/ Arthur E. Johnson Director
Arthur E. Johnson

/s/ Wyck A. Knox, Jr. Director
Wyck A. Knox, Jr.

/s/ Dennis M. Love Director
Dennis M. Love

/s/ James A. Rubright Director
James A. Rubright

/s/ Felker W. Ward, Jr. Director
Felker W. Ward, Jr.

/s/ Bettina M. Whyte Director
Bettina M. Whyte

/s/ Henry C. Wolf Director
Henry C. Wolf

**EXHIBIT INDEX
TO
REGISTRATION STATEMENT ON FORM S-8**

| Exhibit Number | Description |
|----------------|--|
| 4.1 | Amended and Restated Articles of Incorporation of AGL Resources Inc. (incorporated by reference to Exhibit 3.1 to the Registrant's Form 8-K filed on November 3, 2005) |
| 4.2 | Bylaws of AGL Resources Inc., as amended and restated on October 29, 2003 (incorporated by reference to Exhibit 3.2 to the Registrant's Form 10-K for the fiscal year ended December 31, 2003) |
| 4.5 | Specimen form of Common Stock certificate (incorporated by reference to Exhibit 4.1 to the Registrant's Form 10-K for the fiscal year ended September 30, 1999) |
| 5.1 | Opinion of Alston & Bird LLP as to the legality of the shares of the Common Stock of AGL Resources Inc. registered hereby |
| 23.1 | Consent of Alston & Bird LLP (included in Exhibit 5.1) |
| 23.2 | Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm |
| 23.3 | Consent of Ernst & Young LLP, independent registered public accounting firm |
| 24.1 | Power of Attorney (included on signature page of this Registration Statement) |