

withdrawing Violation II.A. Therefore, Violation II.A should be withdrawn.

[FR Doc. 97-29886 Filed 11-12-97; 8:45 am]  
BILLING CODE 7590-01-P

## PENSION BENEFIT GUARANTY CORPORATION

### Proposed Submission of Information Collection for OMB Review; Comment Request; Allocating Unfunded Vested Benefits

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of intention to request extension of OMB approval.

**SUMMARY:** The Pension Benefit Guaranty Corporation ("PBGC") intends to request that the Office of Management and Budget ("OMB") extend approval, under the Paperwork Reduction Act, of a collection of information in its regulation on Allocating Unfunded Vested Benefits (29 CFR Part 4211) (OMB control number 1212-0035; expires February 28, 1998). This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

**DATES:** Comments should be submitted by January 12, 1998.

**ADDRESSES:** Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Written comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 240 at the same address, between 9 a.m. and 4 p.m. on business days.

**FOR FURTHER INFORMATION CONTACT:** Deborah C. Murphy, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024. (For TTY and TDD, call 800-877-8339 and request connection to 202-326-4024).

**SUPPLEMENTARY INFORMATION:** Section 4211(c)(5)(A) of the Employee Retirement Income Security Act of 1974 ("ERISA") requires the PBGC to prescribe by regulation a procedure whereby multiemployer pension plans can change the way they allocate unfunded vested benefits to withdrawing employers, subject to PBGC approval. Approval of a change is to be based on a determination that the change will not significantly increase

the risk of loss to plan participants or the PBGC.

The PBGC's regulation on Allocating Unfunded Vested Benefits (29 CFR Part 4211) includes, in § 4211.22, rules for requesting the PBGC's approval of an amendment to a plan's allocation method. Section 4211.22(d) prescribes information that the PBGC needs to identify the plan and evaluate the risk of loss, if any, posed by the amendment (and, hence, determine whether it should approve the amendment). Section 4211.22(e) requires the submission of other information that the PBGC may need to review the amendment. (The regulation may be accessed on the PBGC's home page at <http://www.pbgc.gov>.)

The collection of information under the regulation has been approved by OMB under control number 1212-0035 through February 28, 1998. The PBGC intends to request that OMB extend its approval for another three years. The PBGC estimates that it receives five submissions from plan sponsors annually under the regulation; that virtually all submissions are prepared by outside consultants; that the total annual hour burden of engaging the services of such consultants is one hour; and that the total annual cost burden of having the submissions prepared is \$1,575.

The PBGC is soliciting public comments to—

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Issued in Washington, DC, this 7th day of November, 1997.

**David M. Strauss,**

*Executive Director, Pension Benefit Guaranty Corporation.*

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BILLING CODE 7708-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-26774]

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

November 6, 1997.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 1, 1997, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

*New England Electric System, et al. (70-9143); Notice of Proposal to Amend Articles of Incorporation and Authorize Registered Holding Company to Acquire Preferred Stock of Utility Subsidiaries; Order Authorizing Solicitation of Proxies*

New England Electric System ("NEES"), a registered holding company, and its wholly-owned public utility subsidiaries, New England Power Company ("the Power Company"), Massachusetts Electric Company ("Mass Electric"), and the Narragansett Electric Company ("Narragansett"), all located at 25 Research Drive, Westborough, Massachusetts 01582, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(c), 12(d) and 12(e) of

the Act and rules 43, 44, 51, 54, 62 and 65 under the Act.<sup>1</sup>

### *The Power Company*

The Power Company has outstanding 6,449,896 shares of common stock, \$100 par value per share ("Power Company Common Stock"), all of which are held by NEES. The Power Company also has issued a 6% cumulative preferred stock, outstanding 75,020 shares, \$100 par value ("Power Company Cumulative Preferred Stock"). The Power Company's other outstanding preferred stock consists of 321,640 shares of dividend series preferred stock, \$100 par value per share ("Power Company Dividend Series Preferred Stock"), issued in four series.<sup>2</sup> There is also authorized another class of preferred stock ("Power Company Preferred Stock—Cumulative"), \$25 par value, of which there are no series currently outstanding. The Power Company Common Stock shares general voting rights with the Power Company Cumulative Preferred Stock, and are entitled to one vote per share. No other class of Power Company equity securities is outstanding.

The Power Company's by-laws and articles of incorporation ("Power Company Articles") currently provide that, without a vote of a majority of the outstanding Power Company Dividend Series Preferred Stock and Preferred Stock—Cumulative, the Power Company will not issue or assume any evidence of unsecured indebtedness (except for redemption of outstanding shares of all series of the stock), if the total amount (exclusive of certain unsecured indebtedness) immediately after the issue would exceed 20% of total secured indebtedness, capital, premium, and retained earnings, of which 20%, not more than one-half shall be short-term unsecured indebtedness.<sup>3</sup> ("Power Company Restriction Provision").

The Power Company proposes to solicit proxies from the holders of outstanding shares of Power Company Dividend Series Preferred Stock and Common Stock ("Power Company Proxy Solicitation") for use at a special meeting of its stockholders ("Power Company Special Meeting") to consider a proposed amendment to the Power Company Articles that would eliminate in its entirety the Power Company Restriction Provision ("Power Company Proposed Amendment") from the Power Company Articles. Approval of the Power Company Proposed Amendment requires the affirmative vote at the Power Company Special Meeting of the holders of not less than two-thirds of the total number of the then-outstanding shares of (1) The Power Company Dividend Series Preferred Stock of all Power Company Series, voting together as one class, and (2) the Power Company Common Stock. NEES will vote its shares of Power Company Stock

unsecured notes, debentures or other securities representing unsecured indebtedness issued or assumed by the corporation and then outstanding (including unsecured securities then to be issued or assumed but excluding unsecured securities theretofore so voted for by holders of Dividend Series Preferred Stock and Preferred Stock—Cumulative) (the "Unsecured Indebtedness") would exceed twenty per cent (20%) of the aggregate of (i) the total principal amount of all bonds and other securities representing secured indebtedness issued or assumed by the corporation and then outstanding and (ii) the capital, premium and retained earnings of the corporation as then stated on the books of account of the corporation; provided, however, that after July 1, 1976, short-term unsecured indebtedness shall not exceed ten per cent (10%) of such aggregate of (i) and (ii) above; and provided, further, that after July 1, 1976, in the event unsecured securities representing short-term unsecured indebtedness (excluding unsecured securities theretofore so voted for by the holders of Dividend Series Preferred Stock and Preferred Stock—Cumulative) exceed ten per cent (10%) of (i) and (ii) above, no unsecured securities representing unsecured indebtedness shall be issued or assumed (except for the purpose of redemption or other retirement of outstanding shares of all series of the Dividend Series Preferred Stock and the Preferred Stock—Cumulative) unless such ratio of short-term unsecured indebtedness immediately after such issue or assumption is to be not over ten per cent (10%) of such aggregate of (i) and (ii) above. "Short-term unsecured indebtedness" as used herein means unsecured indebtedness of an original maturity of less than ten years and "long-term unsecured indebtedness" means unsecured indebtedness of ten years or more. For the purposes hereof, when any long-term unsecured indebtedness becomes due within ten years, or when any long-term unsecured indebtedness is to be retired within ten years through a sinking fund or otherwise, such long-term unsecured indebtedness, in each case, shall be considered short-term unsecured indebtedness; provided, however, that any long-term unsecured indebtedness of a single maturity (except as provided above in respect of a sinking fund therefore), or the last maturity of any long-term unsecured indebtedness of serial maturities, shall not be considered short-term unsecured indebtedness until due within five years.

in favor of the Power Company Proposed Amendment.

If the Power Company Proposed Amendment is adopted, the Power Company would make a special cash payment of \$1.00 per share ("Power Company Cash Payment") to each holder of Power Company Dividend Series Preferred Stock of any Series who voted shares (in person by ballot or by proxy) (each, a "Power Company Share") in favor of the Power Company Proposed Amendment at the Power Company Special Meeting (except that no Power Company Cash Payment will be made with respect to any Power Company Share validly tendered under the concurrent tender offer described below). The Power Company will disburse Power Company Cash Payments out of its general funds following adoption of the Power Company Proposed Amendment.

Concurrently with or shortly before the Power Company Proxy Solicitation, and subject to the terms and conditions stated in an Offer to Purchase and Proxy Statement and Information Statement and accompanying Letter of Transmittal (collectively, "Power Company Offer Documents"), NEES proposes to make a cash tender offer ("Power Company Tender Offer") to acquire any and all outstanding shares of Power Company Preferred Stock of each Power Company Series, at cash purchase prices which NEES anticipates will include a market premium for each Series (each, a "Power Company Purchase Price"). The Power Company Purchase Price and the other terms and conditions of the Power Company Tender Offer apply equally to all preferred stockholders of the respective Power Company Series. The offer for any one Power Company Series is independent of the offer for any other Power Company Series or for the shares of any other subsidiary.

NEES anticipates that the Power Company Tender Offer will expire at 5:00 p.m. Eastern Standard Time on December 12, 1997, the date of the Power Company Special Meeting ("Power Company Expiration Date"), unless otherwise extended. The Power Company Tender Offer is not conditioned upon any minimum number of shares of Power Company preferred stock being tendered. Preferred stockholders who tender their shares under a Power Company Tender Offer are required to vote in favor of or consent to the Power Company Proposed Amendment, and one of the conditions of the Power Company Tender Offer requires that the Power Company Proposed Amendment be approved and adopted.

<sup>1</sup> The Power Company, Mass. Electric and Narragansett are sometimes referred to individually as a "Subsidiary" or collectively as "Subsidiaries."

<sup>2</sup> The four series of Power Company Dividend Series Preferred Stock consist of a 4.56% series, of which 100,000 shares are outstanding; a 4.60% series, of which 80,140 shares are outstanding; a 4.64% series, of which 41,500 shares are outstanding; and a 6.08% series, of which 100,000 shares are outstanding (each, a "Power Company Series").

<sup>3</sup> The Power Company Restriction Provision specifically provides that the Power Company will not:

[I]ssue any unsecured notes, debentures or other securities representing unsecured indebtedness, or assume any such unsecured securities, for purposes other than the redemption or other retirement of outstanding shares of all series of the Dividend Series Preferred Stock and the Preferred Stock—Cumulative, if immediately after such issue or assumption the total principal amount of all

*Mass. Electric*

Mass Electric has outstanding 2,398,111 shares of common stock, \$25 par value ("Mass. Electric Common Stock"), all of which are held by NEES. Mass. Electric's outstanding preferred stock consists of 350,000 shares of dividend series preferred stock, \$100 par value, issued in three series<sup>4</sup> ("Mass. Electric Dividend Series Preferred Stock"), and 600,000 shares of preferred stock—cumulative, \$25 par value, of which there is one series outstanding,<sup>5</sup> all of which are traded over the counter. ("Mass. Electric Preferred Stock—Cumulative"). Mass. Electric Common Stock and Mass. Electric Dividend Series Preferred Stock are entitled to one vote per share. The Mass. Electric Preferred Stock—Cumulative is entitled to a quarter vote per share. No other class of Mass. Electric equity securities is outstanding.

Mass. Electric's By-Laws and Articles of Organization ("Mass. Electric Articles") currently provide that, without a vote of a majority of the outstanding Mass. Electric Dividend Series Preferred Stock and Preferred Stock—Cumulative, Mass. Electric will not issue or assume any unsecured indebtedness (except for redemption of outstanding shares of all series of preferred stock), if the total amount of the indebtedness (exclusive of certain unsecured indebtedness) immediately after the issue would exceed 20% of total capitalization, or if, immediately after the issue, the total amount of the short-term unsecured indebtedness (exclusive of certain short-term unsecured indebtedness) issued or assumed by Mass. Electric after September 30, 1998, would exceed 10% of total capitalization.<sup>6</sup> ("Mass. Electric Restriction Provision").

<sup>4</sup> The three series of Mass. Electric Dividend Series Preferred Stock consist of a 4.44% series, of which 75,000 shares are outstanding; a 4.76% Series, of which 75,000 shares are outstanding; and a 6.99% series, of which 200,000 shares are outstanding.

<sup>5</sup> The single series of Mass. Electric Preferred Stock—Cumulative is a 6.84% series. Each of the series referred to in footnote 4 and this series shall be referred to as a "Mass. Electric Series."

<sup>6</sup> The Mass. Electric Restrictive Provision specifically provides that Mass. Electric will not:

[I]ssue or assume any unsecured notes, debentures or other securities representing unsecured indebtedness for purposes other than (x) the refunding of outstanding unsecured indebtedness theretofore issued or assumed by the corporation resulting in maturities later than the maturity of the indebtedness being refunded or (y) the reacquisition, redemption or other retirement of any indebtedness which reacquisition, redemption or other retirement has been authorized under the provisions of the Public Utility Holding Company Act of 1935, if, immediately after such issue or assumption, the total principal amount of all unsecured notes, debentures or other securities

Mass. Electric proposes to solicit proxies from the holders of outstanding shares of Mass. Electric Dividend Series Preferred Stock and Common Stock ("Mass. Electric Proxy Solicitation") for use at a special meeting of its stockholders ("Mass. Electric Special Meeting") to consider a proposed amendment to the Mass. Electric Articles that would eliminate in its entirety the Mass. Electric Restriction Provision ("Mass. Electric Proposed Amendment") from the Mass. Electric Articles. Approval of the Mass. Electric Proposed Amendment requires the affirmative vote at the Mass. Electric Special Meeting of the holders of not less than two-thirds of the total number of the then-outstanding shares of (1) the Mass. Electric preferred stock of all Mass. Electric Series, voting together as one class, and (2) the Mass. Electric Common Stock. NEES will vote its shares of Mass. Electric Common Stock in favor of the Mass. Electric Proposed Amendment.

If the Mass. Electric Proposed Amendment is adopted, Mass. Electric would make a special cash payment of \$1.00 per share ("Mass. Electric Cash Payment") to each holder of Mass.

representing both long and short-term unsecured indebtedness issued or assumed by the corporation and then to be outstanding (but excluding unsecured indebtedness theretofore so voted for by holders of Preferred Stock and Preferred Stock—Cumulative) would exceed twenty per cent (20%) of total capitalization, or if, immediately after such issue or assumption, such short-term unsecured indebtedness issued or assumed by the corporation after September 30, 1998, and then to be outstanding (but excluding short-term indebtedness theretofore so voted for by holders of Preferred Stock or Preferred Stock—Cumulative) would exceed ten per cent (10%) of total capitalization; provided, however, that in the event such short-term unsecured indebtedness (but excluding short-term unsecured indebtedness theretofore so voted by holders of Preferred Stock and Preferred Stock—Cumulative) exceeds such latter limit, no unsecured securities representing unsecured indebtedness shall be issued or assumed (except for the purposes specified in clauses (x) and (y) above) unless such ratio of short-term unsecured indebtedness immediately after such issue or assumption is not in excess of such limit.

"Short-term unsecured indebtedness" as used in this subsection E(4) means unsecured indebtedness of an original maturity of less than ten years and "long-term unsecured indebtedness" means unsecured indebtedness of an original maturity of ten years or more. For the purposes hereof, when any long-term unsecured indebtedness becomes due within five years, or when any long-term unsecured indebtedness is to be retired within five years through a sinking fund or otherwise, such long-term unsecured indebtedness, in each case, shall be considered short-term unsecured indebtedness. "Total capitalization" as used in this subsection E(4) means the aggregate of (i) the total principal amount of all bonds and other securities representing secured indebtedness issued or assumed by the corporation and then outstanding and (ii) the capital, premium and surplus of the corporation as then stated on the books of account of the corporation.

Electric Dividend Series Preferred Stock of any Series, and 25 cents per share to each holder of the Mass. Electric Preferred Stock—Cumulative who voted shares (each, a "Mass. Electric Share") (in person by ballot or by proxy) in favor of the Mass. Electric Proposed Amendment at the Mass. Electric Special Meeting (except that no Mass. Electric Cash Payment will be made with respect to any Mass. Electric Share validly tendered under the concurrent tender offer described below). Mass. Electric will disburse Mass. Electric Cash Payments out of its general funds following adoption of the Mass. Electric Proposed Amendment.

Concurrently with or shortly before the Mass. Electric Proxy Solicitation, and subject to the terms and conditions stated in an Offer to Purchase Proxy Statement and accompanying Letter of Transmittal (together, "Mass. Electric Offer Documents"), NEES proposes to make a cash tender offer ("Mass. Electric Tender Offer") to acquire any and all outstanding shares of Mass. Electric Preferred Stock of each Series, at cash purchase prices which NEES anticipates will include a market premium for each Mass. Electric Series (each, a "Mass. Electric Purchase Price"). The Mass. Electric Purchase Price and the other terms and conditions of the Mass. Electric Tender Offer apply equally to all preferred stockholders of the respective Mass. Electric Series. The offer for any one Mass. Electric Series is independent of the offer for any other Mass. Electric Series or for the shares of any other subsidiary.

NEES anticipates that the Mass. Electric Tender Offer will expire at 5:00 P.M. Eastern Standard Time on December 12, 1997, the date of the Mass. Electric Special Meeting ("Mass. Electric Expiration Date"), unless otherwise extended. The Mass. Electric Tender Offer is not conditioned upon any minimum number of shares of Mass. Electric preferred stock being tendered. Preferred stockholders who tender their shares under a Mass. Electric Tender Offer are required to vote in favor of or consent to the Mass. Electric Proposed Amendment, and one of the conditions of the Mass. Electric Tender offer requires that the Mass. Electric Proposed Amendment be approved and adopted.

*Narragansett*

Narragansett has outstanding 1,132,487 shares of common stock, \$50 par value ("Narragansett Common Stock"), all of which are held by NEES. Narragansett's outstanding preferred stock consists of 730,000 shares of

cumulative preferred stock, \$50 par value, issued in three series,<sup>7</sup> all of which are traded over the counter. ("Narragansett Cumulative Preferred Stock"). Narragansett Common Stock and Narragansett Cumulative Preferred Stock are entitled to one vote per share. No other class of Narragansett equity securities is outstanding.

Narragansett's Preferred Stock Provisions ("Narragansett Provisions") currently provide that, without a vote of a majority of the outstanding Narragansett preferred stock, voting as a class, Narragansett will not issue or assume any unsecured indebtedness (except for redemption of outstanding shares of all series of preferred stock) if the total amount of the indebtedness (exclusive of certain unsecured indebtedness) immediately after the issue would exceed 10% of all secured indebtedness and capital and surplus of Narragansett.<sup>8</sup> ("Narragansett Restriction Provisions").

Narragansett proposes to solicit proxies from the holders of outstanding shares of Narragansett Cumulative Preferred Stock and Common Stock ("Narragansett Proxy Solicitation") for use at a special meeting of its stockholders ("Narragansett Special Meeting") to consider a proposed amendment to the Narragansett Provisions that would eliminate in its entirety the Narragansett Restriction Provision ("Narragansett Proposed Amendment") from the Narragansett Provisions. Approval of the Narragansett Proposed Amendment requires the affirmative vote at the Narragansett Special Meeting of the holders of (1) not less than two-thirds of the total number

of the then-outstanding shares of Narragansett preferred stock of all Narragansett Series, voting together as one class, (2) 75% of the preferred shares present or represented at the meeting, and (3) a majority of the Narragansett Common Stock. NEES will vote its shares of Narragansett Common Stock in favor of the Narragansett Proposed Amendment.

If the Narragansett Proposed Amendment is adopted, Narragansett would make a special cash payment of 50 cents per share ("Narragansett Cash Payment") to each holder of Narragansett Cumulative Preferred Stock of any Narragansett Series who voted shares (each, a "Narragansett Share") (in person by ballot or by proxy) in favor of the Narragansett Proposed Amendment at the Narragansett Special Meeting (except that no Narragansett Cash Payment will be made with respect to any Narragansett Share validly tendered under the concurrent tender offer described below). Narragansett will disburse Narragansett Cash Payments out of its general funds following adoption of the Proposed Amendment.

Concurrently with or shortly before the Narragansett Proxy Solicitation, and subject to the terms and conditions stated in an offer to Purchase Proxy Statement and accompanying Letter of Transmittal (collectively, "Narragansett Offer Documents"), NEES proposes to make a cash tender offer ("Narragansett Tender Offer") to acquire any and all outstanding shares of Narragansett Cumulative Preferred Stock of each Narragansett Series, at cash purchase prices which NEES anticipates will include a market premium for each Narragansett Series (each, a "Narragansett Purchase Price"). The Narragansett Purchase Price and the other terms and conditions of the Narragansett Tender Offer apply equally to all preferred stockholders of the respective Narragansett Series. The offer for any one Narragansett Series is independent of the offer for any other Narragansett Series or for the shares of any other subsidiary.

NEES anticipates that the Narragansett Tender Offer will expire at 5:00 p.m. on December 12, 1997, the date of the Narragansett Special Meeting ("Narragansett Expiration Date"), unless otherwise extended. The Narragansett Tender Offer is not conditioned upon any minimum number of shares of Narragansett preferred stock being tendered. Preferred stockholders who tender their shares under a Narragansett Tender Offer are required to vote in favor of or consent to the Narragansett Proposed Amendment, and one of conditions of the Narragansett Tender

offer requires that the Narragansett Proposed Amendment be approved and adopted.

Tenders of Power Company Shares, Mass. Electric Shares and Narragansett Shares (collectively, "Shares") made under the Power Company Tender Offer, Mass. Electric Tender Offer and Narragansett Tender Offer, respectively (individually, "Tender Offer" and collectively, "Tender Offers"), may be withdrawn at any time prior to the Power Company Expiration Date, Mass. Electric Expiration Date and the Narragansett Expiration Date, respectively (individually and collectively, "Expiration Date"). Thereafter, the tenders are irrevocable, subject to certain exceptions identified in the Power Company Offer Documents, Mass. Electric Offer Documents and Narragansett Offer Documents (individually and collectively, "Offer Documents"). NEES states that its obligations to proceed with the Tender Offers and to accept for payment and to pay for any Shares tendered will be made in accordance with rule 51 under the Act and are subject to various conditions enumerated in the Offer Documents, including the receipt of a Commission order under the Act authorizing the proposed transactions and the adoption of the Power Company Proposed Amendment, Mass. Electric Proposed Amendment and the Narragansett Proposed Amendment (individually, "Proposed Amendment" and collectively, "Proposed Amendments") at the Power Company Special Meeting, Mass. Electric Special Meeting and Narragansett Special Meeting, respectively (individually and collectively, "Special Meeting").

Applicants undertake to comply with all requirements of the Securities Exchange Act of 1934 ("Exchange Act") and rules and regulations thereunder in connection with the Power Company Proxy Solicitation, Mass. Electric Proxy Solicitation and Narragansett Proxy Solicitation, as applicable (individually, "Proxy Solicitation" and collectively, "Proxy Solicitations"), except to the extent applicants rely on exemptions from the requirements of rule 13e-3 and regulation 14A of the Exchange Act, and acknowledge that any authorization granted under the Act is conditioned upon their compliance. Shares validly tendered will be held by NEES until the Expiration Date (or returned in the event a Tender Offer is terminated). Subject to the terms and conditions of the Tender Offers, as promptly as practicable after the Expiration Date, NEES will accept for payment (and thereby purchase) and pay for Shares validly tendered and not

<sup>7</sup> The three series of Narragansett cumulative preferred stock consist of a 4.50% series, of which 180,000 shares are outstanding; a 4.64% series, of which 150,000 shares are outstanding; and a 6.95% series, of which 400,000 shares are outstanding (each, a "Narragansett Series").

<sup>8</sup> The Narragansett Restriction Provision specifically provides that Narragansett will not:

[I]ssue any unsecured notes, debentures or other securities representing unsecured indebtedness, or assume any such unsecured securities, for purposes other than the refunding of outstanding unsecured securities theretofore issued or assumed by the Company resulting in equal or longer maturities or the redemption or other retirement of all outstanding shares of the Preferred Stock, if, immediately after such issue or assumption, the total principal amount of all unsecured notes, debentures or other securities representing unsecured indebtedness issued or assumed by the Company and then outstanding (including unsecured securities then to be issued or assumed) but excluding unsecured securities theretofore so consented to by holders of Preferred Stock, would exceed ten per cent (10%) of the aggregate of (i) the total principal amount of all bonds and other securities representing secured indebtedness issued or assumed by the Company and then outstanding and (ii) the capital and surplus of the Company as then stated on the books of account of the Company.

withdrawn. NEES intends to use its general funds (which, in the ordinary course, include funds from the Power Company, Mass. Electric and Narragansett) and incur indebtedness under NEES' committed lines of credit, including any bank revolving credit agreements, in an amount sufficient to pay the Power Company Purchase Price, Mass. Electric Purchase Price and Narragansett Purchase Price (individually and collectively, "Purchase Price") for all tendered Shares. Merrill Lynch, Pierce, Fenner & Smith Incorporated will act as dealer manager for NEES in connection with the Tender Offers.<sup>9</sup>

If a Proposed Amendment is adopted at a Subsidiary's Special Meeting, promptly after consummation of the Tender Offer, either the issuing Subsidiary will purchase the Shares sold to NEES under the Tender Offer at the relevant Purchase Price plus expenses incurred in the Tender Offer, or NEES will donate the Shares to that Subsidiary as a capital contribution. The Subsidiary will then retire and cancel the shares.

If a Proposed Amendment is not adopted at the relevant Special Meeting, NEES may elect, but is not obligated, to waive adoption of the Proposed Amendment as a condition to its obligation to proceed with the Tender Offer, subject to applicable law. In that case, as promptly as practicable after NEES's waiver of the condition and its purchase of Shares validly tendered under the Tender Offers, the affected Subsidiary anticipates that it would call

another special meeting and solicit proxies to secure the requisite affirmative vote of stockholders to amend the Power Company Articles, Mass. Electric Articles and Narragansett Provisions (individually and collectively, "Articles"), to eliminate the Power Company Restriction Provision, Mass. Electric Restriction Provision and Narragansett Restriction Provision (collectively, "Restriction Provisions"), as the case may be. At each meeting, NEES would vote any Shares acquired by it under the Tender Offer or otherwise<sup>10</sup> (as well as all of its shares of Common Stock of the affected Subsidiaries) in favor of the Proposed Amendment. If a Proposed Amendment is adopted at that meeting and in any event within one year from the Expiration Date (including any potential extension under a Tender Offer), NEES will promptly after the meeting or at the expiration of the one-year period, as applicable, sell the Shares to the Subsidiary at the applicable Purchase Price plus expenses paid under the Tender Offer, and the Subsidiary will retire and cancel the Shares.

The Applicants believe that the purchase of the Shares at this time represents an attractive economic opportunity that will benefit NEES, its shareholders, and its Subsidiaries. The Applicants further contend that elimination of the Restriction Provisions will produce savings in financing costs that outweigh the one-time costs of the Tender Offers and the Proxy Solicitations,<sup>11</sup> and will be in the best interests of their customers and shareholders.<sup>12</sup>

To finance its proposed purchase of Shares under the Tender Offers, NEES

plans to use general funds and incur debt under its committed lines of credit, including any bank revolving credit agreements, in an amount sufficient to pay the Purchase Price for all tendered Shares, an amount expected to be approximately \$135 million, excluding payment of accrued dividends, but including fees and other expenses.

The applicants also request authorization to deviate from the preferred stock provisions of the *Statement of Policy Regarding Preferred Stock Subject to the Public Utility Holding Company Act of 1935*, HCAR No. 13106 (Feb. 16, 1956), to the extent applicable with respect to the Proposed Amendments.

It appears to the Commission that the application-declaration, to the extent that it relates to the proposed Proxy Solicitations should be permitted to become effective immediately under rule 62(d).

*It is ordered*, that the application-declaration, to the extent that it relates to the proposed Proxy Solicitations be, and it hereby is, permitted to become effective immediately, under rule 62 and subject to the terms and conditions prescribed in rule 24 under the Act.

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

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 97-29881 Filed 11-12-97; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39302; File No. SR-OPRA-97-4]

### Options Price Reporting Authority; Order Granting Approval of Amendment to OPRA Plan Revising OPRA's Dial-Up Market Data Service Rider to Its Vendor Agreement To Accommodate the Vendor's Provision of Dial-Up Service to Customers of OPRA Subscribers

November 5, 1997.

#### I. Introduction

On September 11, 1997, the Options Price Reporting Authority ("OPRA")<sup>1</sup>

<sup>1</sup> OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Exchange Act and Rule 11Aa3-2 thereunder. See Exchange Act Release No. 17638 (March 18, 1981).

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the member exchanges. The five exchanges which agreed to the

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<sup>9</sup> NEES has agreed to pay the dealer manager a fee of .5% of par per share for any Shares tendered, accepted for payment and paid for pursuant to the Tender Offers, the Subsidiaries have agreed to pay the dealer managers a fee of .5% of par per share for any Shares that are not tendered pursuant to the Tender Offers but which vote in favor of the Proposed Amendment. NEES has agreed to reimburse the dealer manager for its reasonable out-of-pocket expenses, including attorneys' fees.

In addition, NEES has agreed to pay soliciting brokers and dealers a separate fee of 1.5% of par per share for any Shares tendered, accepted for payment and paid for pursuant to the Tender Offers except that for transactions with beneficial owners equal to or exceeding 2,500 Shares, NEES will pay a solicitation fee of 1% of par per share for Shares of such Series.

Any fee payable for transactions equal to or exceeding 2,500 shares shall be payable 80% to the dealer manager and 20% to any soliciting dealer (which may be the dealer manager). No fee shall be payable to a soliciting dealer in respect of shares (a) beneficially owned by such soliciting dealer or (b) registered in the name of such soliciting dealer as nominee when the shares are being rendered for the benefit of one or more beneficial owners identified in the applicable Letter of Transmittal or in the applicable Notice of Solicited Tenders (including in the materials provided to brokers and dealers).

NEES proposes to pay Boston Equiserve, L.P., in its capacity as depositary for the Tender Offers, a fee estimated at approximately \$40,000.

<sup>10</sup> Applicant states that, in contrast, if the Subsidiary, rather than NEES, had acquired its shares under the Tender Offer, upon the acquisition the shares would be deemed treasury shares under applicable state law and, as such, the Subsidiary would be precluded from voting those shares under any circumstance.

<sup>11</sup> Each of the Subsidiaries have engaged Georgeson & Company, Inc. to act as information agent in connection with the Proxy Solicitations for a fee and reimbursement of reasonable out-of-pocket expenses expected not to exceed approximately \$10,000.

<sup>12</sup> The Applicants state that the proposed acquisition by NEES of Shares under the Tender Offers will benefit NEES' utility system customers and shareholders by (1) contributing to the elimination of the provisions concerning unsecured indebtedness, and (2) acquiring and retiring of outstanding shares of the preferred stock and their potential replacement with comparatively less expensive financing alternatives. Moreover, the applicants maintain that tendering Power Company Preferred Stockholders, Mass. Electric Preferred Stockholders and Narragansett Preferred Stockholders will benefit by having the option to sell their Preferred Stock at prices that NEES expects will be a premium to the market price and without the usual transaction costs associated with a sale.