

withdrawn.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.⁹

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 otherwise¹⁰ (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,¹¹ and will be in the best interests of their customers and shareholders.¹²

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.

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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")¹

¹ 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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⁹ 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.

¹⁰ 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.

¹¹ 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.

¹² 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.

submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Exchange Act"), an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("Plan"). The proposed amendment revises the Dial-Up Market Data Service Rider ("Rider") to OPRA's vendor agreement to accommodate a third party vendor's provisions of dial-up service to customers of an OPRA subscriber.

The proposed amendment was published for comment in the **Federal Register** on October 2, 1997.² No comments were received on the proposal. This order approves the proposal.

II. Description and Purpose of the Amendment

The purpose of the amendment is to add provisions to OPRA's Rider to the vendor agreement to accommodate the situation in which an OPRA vendor provides a dial-up service to the customers of an OPRA subscriber, rather than to its own customers. According to OPRA, several vendors and broker-dealer subscribers have recently expressed interest in such an arrangement. As this arrangement is not currently contemplated under the Rider, the proposal would amend the Rider to address the one significant difference between the traditional situation of a firm providing a dial-up service to its own customers and the recent proposals for firms to arrange for third-party vendors to provide a dial-up service for the firms' customers. In the former case, there is a direct contractual relationship between the vendor, a party to the Rider, and the vendor's customers. In the latter case, however, the vendor's subscriber, rather than the vendor, has a contractual relationship with the customer.

In its current form, the Rider imposes certain obligations on vendors who provide a dial-up service. These obligations require that contracts between vendors and their customers contain specific provisions, for the benefit of OPRA, relating to proprietary rights to OPRA data, non-retransmission of data, the absence of any guarantee of the data and a disclaimer of liability. The proposed amendment to the Rider would mandate that vendors require

comparable provisions to be included in contracts between subscribers and their customers who receive a dial-up service from a third-party vendor.³

Other than as described above, OPRA proposes no change in the way in which dial-up services may be offered to investors. OPRA represents that no new or additional OPRA fees will result from this proposed amendment and the amendment will not make any new parties subject to OPRA's existing fee. OPRA proposes to phase in the revised form of the Rider to take the place of the existing Rider.

III. Discussion

After careful review, the Commission finds that the proposed amendment is consistent with the requirements of the Act and the rules and regulations thereunder.⁴ Specifically, the Commission believes that the proposed amendment, which accommodates the provision of OPRA data through third-party vendors, is consistent with Rule 11Aa3-2 in that it will contribute to the maintenance of fair and orderly markets and remove impediments to and perfect the mechanisms of a national market system.

The Commission notes that the proposed amendment will require third party vendors that provide a dial-up service to the customers of OPRA subscribers to obtain an agreement from the subscribers, in writing, that the subscribers will include provisions for the benefit of OPRA in the subscribers' written agreements with its customers. The Commission believes that it is reasonable for OPRA to extend its existing contractual protections to situations in which a third party vendor provides a dial-up service to the customers of an OPRA subscriber. The Commission notes that the proposed amendment also provides OPRA

³ The proposal would require vendors to obtain a written agreement from each OPRA subscriber whose customers will be provided the dial-up service from the vendor that the subscriber will: (1) obtain from each of its customers to whom the vendor furnishes the service an agreement that the customer will: (a) receive OPRA data only for such person's use, (b) not retransmit the data to anyone else, and (c) acknowledge that OPRA data is the property of the respective exchange or market in which a reported transaction occurred or a reported quotation was entered; (2) provide to the vendor a current list of customers entitled to receive the service from the vendor and to certify that each named customer has entered into the required agreement; (3) maintain the same customer records required to be maintained by the vendor with respect to customers; and (4) acknowledge the absence of any guarantee and the disclaimer of liability on the part of OPRA, OPRA's processor and each participating exchange.

⁴ In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

subscribers with alternatives for the provision of the dial-up service to their customers. Accordingly, the Commission believes that the proposed amendment will provide additional flexibility to OPRA subscribers while providing OPRA with the contractual protections that it requires.

IV. Conclusion

It is therefore ordered, pursuant to Rule 11Aa3-2 of the Act, that the proposed amendment (SR-OPRA-97-4) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,
Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. RE-97-57]

Petitions for Exemption Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 3, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC. 20591.

OPRA Plan are the American Stock Exchange ("AMEX"); the Chicago Board Options Exchange ("CBOE"); the New York Stock Exchange ("NYSE"); the Pacific Exchange ("PCX"); and the Philadelphia Stock Exchange ("Phlx").

² See Exchange Act Release No. 39137 (September 26, 1997) 62 FR 51707.

⁵ 17 CFR 200.30-3(a)(29).