

If the Proposed Amendment is adopted at the Special Meeting, promptly after consummation of the Tender Offer, Cinergy will make a capital contribution to CG&E of all Shares tendered to and acquired by Cinergy pursuant to the Tender Offer, and CG&E will thereupon retire and cancel such Shares.<sup>8</sup> If the Proposed Amendment is not adopted at the Special Meeting, Cinergy, subject to applicable law, 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. In that case, as promptly as practicable after Cinergy's waiver of such condition and its purchase of the Shares validly tendered pursuant to the Tender Offer, CG&E (after requesting and receiving any additional Commission authorizations required under the Act) anticipates that it would call another special meeting of its common and preferred stockholders to solicit proxies therefrom for the same purpose as the instant proceeding (*i.e.*, to secure the requisite two-thirds affirmative vote of stockholders to amend the Articles to eliminate the 20% Limitation). At that meeting, Cinergy would vote any Shares acquired by it pursuant to the Tender Offer or otherwise<sup>9</sup> (as well as all of its shares of Common Stock) in favor of the Proposed Amendment. If the Proposed Amendment is adopted at that meeting, and in any event within one year of the Expiration Date (including any extension thereof), Cinergy will promptly after such meeting or at the expiration of such one-year period, as applicable, make a capital contribution to CG&E of all Shares held by Cinergy, and CG&E will thereupon retire and cancel such Shares.

It appears that the application-declaration, to the extent that it relates to the proposed Proxy Solicitation, should be granted and permitted to

solicitation fee of \$1.25 per Share, and (b) soliciting brokers and dealers will not be entitled to any solicitation fee with respect to tendered Shares accepted for payment as to which they are the beneficial owners). Cinergy expects to pay the Bank of New York a depositary fee of approximately \$22,000.

<sup>8</sup> Applicants state that the contemplated capital contribution by Cinergy to CG&E of Shares acquired by Cinergy pursuant to the Tender Offer would be exempt from the requirements of section 12(b) and rule 45(a) pursuant to rule 45(b)(4).

<sup>9</sup> Following the Expiration Date and the consummation of the purchase of Shares pursuant to the Tender Offer, Cinergy may decide to purchase additional Shares on the open market, in privately negotiated transactions, through one or more tender offers or otherwise. Applicants state that Cinergy will not undertake any such transactions without first receiving any additional Commission authorizations required under the Act.

become effective forthwith pursuant to rule 62.

It is ordered, therefore, that the application-declaration, to the extent that it relates to the proposed Proxy Solicitation be, and it hereby is, granted and permitted to become effective forthwith pursuant to 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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### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of August 26, 1996.

An open meeting will be held on Wednesday, August 28, 1996, at 10:00 a.m. A closed meeting will be held on Thursday, August 29, 1996, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, of his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Wednesday, August 28, 1996, at 10:00 a.m., will be:

The Commission will consider whether to approve the proposed Order Execution Obligations Rules published for comment in October 1995. The Order Execution Obligations Rules included proposed amendments to Rule 11Ac1-1 (Quote Rule), proposed Rule 11Ac1-4 (Limit Order Display Rule), and proposed Rule 11Ac1-5 (Price Improvement Rule). These proposed amendments and rules were designed to improve the handling and execution of customer orders, and to publicize prices of customer limit orders and orders entered in electronic communications networks that allow exchange specialists and over-the-counter market makers to trade at prices that

are superior to their public quotes. For further information, please contact Gail Marshall, Division of Market Regulation, at (202) 942-7129.

The subject matter of the closed meeting scheduled for Thursday, August 29, 1996, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

Formal order of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: August 21, 1996.

Jonathan G. Katz,

*Secretary.*

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[Release No. 34-37581; File No. SR-BSE-96-05]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Its Specialist Performance Evaluation Program

August 19, 1996.

#### I. Introduction

On June 11, 1996, to Boston Stock Exchange, Inc. ("BSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend its Specialist Performance Evaluation Program ("SPEP").<sup>3</sup> On June

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The SEC initially approved the BSE's SPEP pilot program in Securities Exchange Act Release No. 22993 (March 10, 1986), 51 FR 8298 (March 14, 1986) (File No. SR-BSE-84-04). The SEC subsequently extended the pilot program in Securities Exchange Act Release Nos. 26162 (October 6, 1988), 53 FR 40301 (October 14, 1988) (File No. SR-BSE-87-06); 27656 (January 30, 1990), 55 FR 4296 (February 7, 1990) (File No. SR-BSE-90-01); 28919 (February 26, 1991), 56 FR 9990 (March 8, 1991) (File No. SR-BSE-91-01); and 30401 (February 24, 1992), 57 FR 7413 (March 2, 1992) (File No. SR-BSE-92-01). The BSE was permitted to incorporate objective measures of specialist performance into its pilot program in Securities Exchange Act Release No. 31890 (February 19, 1993), 58 FR 11647 (February 26, 1993) (File No. SR-BSE-92-04); at which point the initial pilot program ceased to exist as a separate program. The current pilot program was

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