The reasons alleged in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, the Board of Directors of the Company has requested management reduce the Company's operating costs. In that regard, the Company has carefully reviewed its expenditures. It has been determined that the benefit of continued listing on the PCX does not justify the approximate annual cost to the Company.

Any interested person may, on or before April 14, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7869 Filed 3–27–97; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (TPC Corporation, Common Stock, $.01 Par Value) File No. 1–10718

March 24, 1997.

TPC Corporation (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the American Stock Exchange, Inc. (''Amex'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company the Board of Directors approved the listing of the Security on the New York Stock Exchange, (''NYSE''). The Security became effective on the NYSE on December 12, 1996. The principal reason for the Board of Directors to approve the new listing was its concern about the current positioning of the Security on the Amex.

Any interested person may, on or before April 14, 1997 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7870 Filed 3–27–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38430; File No. SR–NASD–96–48]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes by the National Association of Securities Dealers, Inc. Relating to: (1) Rule 4770 of the SOES Rules, Regarding the Fees Charged for Executions and Cancellation of Orders Entered in SOES, and (2) Rule 7010, Related to Charges for Orders and Cancellation of Orders Entered Into SelectNet

March 21, 1997.

On December 16, 1996, the Nasdaq Stock Market, Inc. (''Nasdaq''), a wholly owned subsidiary of the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The rule change amends NASD Rule 4770 of the Small Order Execution System (''SOES'') Rules, regarding the fees charged for execution and cancellation of orders entered in SOES, and amends, NASD Rule 7010, related to charges for execution and cancellation of orders entered into SelectNet. Notice of the proposed rule change, together with the substance of the proposal, was provided by issuance of a Commission release and by publication in the **Federal Register**.[3] Forty-four comment letters were received. The Commission is approving the proposed rule change.

I. Description of Rule Change

The NASD and Nasdaq have evaluated the current fee structures for SOES and the SelectNet system that will be changed to accommodate the new SEC rules regarding a Nasdaq market maker's order handling obligations, *i.e.*, Rule 11Ac1–4 (the customer limit order display rule) and amended Rule 11Ac1–1 (amendments to the quote rule regarding the display of priced orders entered by market makers or specialists into electronic communications networks (''ECNs'')) (collectively, the ''Order Handling Rules'').[4] The NASD and Nasdaq have determined, as explained below, to restructure SOES and SelectNet fees because of charges to their operation as addressed in recently approved NASD proposed rule changes stemming from the SEC's new rules.

A. SOES Fees

SOES is Nasdaq's small order execution system in which orders of 1,000 shares or less are automatically executed against available Nasdaq market makers. In a separate rule filing, the Commission[5] approved on a temporary basis for a limited number of stocks, changes allowing market makers to comply with new obligations to display customer limit orders in their quotations and to execute orders at such quotes only up to actual displayed size, as opposed to an artificial ''tier size.'' In addition, among other changes, the Commission approved a proposal to allow market makers to enter customer market and marketable limit orders into SOES, unlike the previous SOES Rules, which prohibited market maker entry of such orders, unless the market makers self-preference those orders, i.e., direct them to themselves.

Because the Order Handling Rules change the current approach to market maker quoting in Nasdaq securities from a pure dealer-driven quote to a more order-driven quote, the NASD and Nasdaq believe that the disparate application of the current SOES fee structure to the market maker should be changed to take into account the new process by which quotes are established and orders are executed. Accordingly,

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 38084 (December 24, 1996), 62 FR 780 (January 6, 1997).

[4] *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (Order Handling Rules Adopting Release).

[5] *See* Securities Exchange Act Release No. 38156 (January 10, 1997), 62 FR 2415 (January 16, 1997) (publishing approval of SR–NASD–96–43).

the NASD and Nasdaq proposed to establish a charge assessed against both sides to the transaction regardless of the size of the transaction—both the order entry firm and the market maker will be charged for the execution in SOES. Under the new fee structure, if an order entry firm or a market maker were to enter an order of 1,000 shares into SOES, and that order was executed against a single market maker, the firm entering the order (whether a market maker or order entry firm) would be assessed $0.50 and the market maker executing the order would be assessed $0.50. If a SOES order entered by an order entry firm were executed against multiple market makers, the order entry firm would be charged a single $0.50 fee while each market maker participating in the executions would also be charged a $0.50 fee.

The NASD and Nasdaq proposed this charge against both parties to an execution in recognition of the significant market structure changes caused by the SEC rules, the respective use of Nasdaq facilities to support SOES operations by both market makers and order entry firms, and the significant benefits that both sides of the trade receive in the new trading environment in SOES. In the past, the quotations represented solely market maker proprietary interest. In the new environment, market makers may be displaying a priced order under the customer limit order display rule. Because market makers may be quoting a particular price to attract order flow, it is appropriate to assess them a reasonable fee for using SOES to obtain executions.

The NASD and Nasdaq believe that the fee structure is fair and reasonable in that it is similar to transaction charges assessed in the securities industry for automatic executions. SOES provides members with an economically efficient means of accessing public quotations and executing securities transactions at the published prices. Moreover, Nasdaq and the NASD believe that the new fee structure equitably allocates charges to both sides of the transaction that are utilizing the system, both of whom benefit from the execution and both of whom consume resources in utilizing the system. In this new trading environment, there is no reason to allocate all of the costs in operating SOES to the market maker. Instead, the more equitable allocation of costs is to charge both the order entry firm and the order execution firm. In this way, both parties to the transaction are allocated the costs that Nasdaq incurs in developing and operating this system.[6]

B. SOES and SelectNet Cancellation Fees

The NASD and Nasdaq also proposed a new fee related to cancellations entered into SOES and SelectNet.[7] Orders entered into either system that are canceled would be charged $0.25 each. Neither SOES nor SelectNet currently have an order cancellation fee. Nasdaq, however, has taken note of the significant number of orders in both systems that are canceled, sometimes with seconds of order entry. By way of example, on one day, approximately 161,400 SelectNet orders were entered, of which approximately 125,600 were canceled. Only 19,000 were executed. In SOES, of approximately 100,000 orders entered, 30,000 typically are canceled.[8] Moreover, many cancellations occur within a 30 second period after order entry. For example, on November 8, 1996, the heaviest user of SelectNet entered 70,000 orders, and canceled a total of almost 64,000 orders, of which 30,000 were canceled within 30 seconds of order entry. Such use of the system requires that Nasdaq be configured to handle heavy SOES and SelectNet use without resulting executions. In recognition that order cancellations consume significant system resources, Nasdaq proposed a cancellation fee to allocate equitably the communications and systems costs associated with the Nasdaq network among all firms that utilize the system.

II. Summary of Comments

The Commission received a total of forty-four comment letters on the proposal. These letters were from Instinet Corporation (''Instinet''),[9] Singer Zamansky LLP (''Singer''),[10] Momentum Securities, Inc. (''Momentum''),[11] Grossman & Co. (''Grossman''),[12] David K. Whitcomb (''Whitcomb''),[13] and A.J. Michaels & Co., LTD (''A.J. Michaels'').[14] The remaining thirty-nine comment letters were from Castle Securities (''Castle'') and its associated persons, all of which stated their agreement with the Whitcomb Letter.[15] The NASD addressed the comments in a letter to the staff.[16]

A. SOES Order Entry Fee

Several commenters objected to the $0.50 fee on the entry of an order into SOES because Nasdaq did not justify the fee on the basis of Nasdaq's cost of running the system.[17] Nasdaq responded that the shift in the fees is a reallocation of the $1.00 SOES fee previously approved by the Commission as reasonable in relation to the operation of the SOES system.[18] Nasdaq further states that while allocating the $1.00 fee to market makers only may have been justified when the quotes represented only a market maker's interest, because the quotation that an order entry firm is accessing through SOES on behalf of its customer may now represent an order from another customer, it is not reasonable to impose a fee that favors one set of customers over another.[19]

Several commenters expressed the concern that the reallocation of fees may harm customers that currently use SOES to obtain executions because it will be more costly to execute their orders

[6] Under NASD Rules, members are permitted to either absorb the costs assessed, or to pass the fee along to the ultimate customer.

[7] It should be noted that SelectNet fees otherwise will remain as currently structured. The SelectNet transaction fee applies to both sides of the transaction. Moreover, the fee will apply to all parties using the system, including electronic communications networks whose priced orders are accessed by NASD members entering orders into SelectNet.

[8] Data from November 20, 1996.

[9] Letter from Charles R. Hood, Senior Vice President and General Counsel, Instinet Corporation, to Jonathan G. Katz, Secretary, SEC, dated January 10, 1997 (''Instinet Letter'').

[10] Letter from Linda Lerner, Esq., Singer Zamansky LLP, to Jonathan G. Katz, Secretary, SEC, dated January 16, 1997 (''Singer Letter'').

[11] Letter from Elizabeth Erwin, President, Momentum Securities, to Jonathan G. Katz, Secretary, SEC, dated January 27, 1997 (''Momentum Letter'').

[12] Letter from Dennis Grossman, President, Grossman & Co. Investment Management, to Jonathan G. Katz, Secretary, SEC, dated January 27, 1997 (''Grossman Letter'').

[13] Letter from David K. Whitcomb, Professor of Finance, Graduate School of Management, Rutgers University, to Jonathan G. Katz, Secretary, SEC, dated January 17, 1997 (''Whitcomb Letter'').

[14] Letter from Michael F. Frey, President, A.J. Michaels & Co., LTD., to Jonathan G. Katz, Secretary, SEC, dated January 29, 1997 (''A.J. Michaels Letter'').

[15] Letters from Michael T. Studer, Mary B. Nolan, Leslie S. Roth, Raymond Snediker, Melissa Goez, Noel Meeks, Ray Postle, Teresa Herbert, Wycliffe Falconer, Victor Soare, Glenn Perkins, Edward R. Namer, Daniel Ledven, Ira Karaba, William W. Curran, M. Hammarstron, George Herbert, Celestine Pugliese, Louis A. Farley, Fausto Pugliese, Llewlyn Reid, Frank Ferrar, Robert Stewell, Robert Robertson, Christine Achatz, Georgene Deluca, Joseph Giordano, Frank Giraco, Paul Giraldi, Dale Morisco, Shakespeare Newsome, Charlie Rauch, Cindy Sarelis, Nick Abadiotakis, Harry W. Zacher, Jr., Walter K. Gartner, Charles S. Kafeiti, Tony S. Kafeiti, and Steven Diaz to Jonathan G. Katz, Secretary, SEC, all dated January 28, 1997.

[16] Letter from Robert E. Aber, General Counsel, Nasdaq, to Ivette Lopez, Esq., Assistant Director, Division of Market Regulation, SEC, dated March 3, 1997 (''Nasdaq Letter'').

[17] *See* Singer Letter, Momentum Letter, Grossman Letter, and A.J. Michaels Letter.

[18] *See* Nasdaq Letter.

[19] *Id.*

through SOES.[20] Nasdaq responds that it has acted to properly balance the fee structure to minimize the likelihood that one set of customers may obtain an unfair advantage over another set of customers. Nasdaq also notes that nothing in the fee proposal requires an order entry firm that is being assessed a fee to pass that fee on to its ultimate customer.[21] Several commenters noted the negative impact on their profits of the fees if they do not pass them along to their customers.[22] Nasdaq responds that this argument is not sufficient justification for allocating the fee only to market makers and their limit order customers.[23]

Several commenters argued that order entry customer costs will increase because fees will be based on each execution that the customer receives, and because SOES orders may be executed against multiple market makers those customers will have to pay $0.50 for each such execution.[24] Nasdaq states that this assertion is based on an erroneous reading of the proposal, and notes that customers will be charged $0.50 only for each total order that is executed. Commenters also argued that overall costs to customers may increase because customer orders executed through SOES may be partially filled, with the result that the remainder of the order must be executed through SelectNet at an additional fee.[25] Nasdaq acknowledges that customers that use multiple systems will incur charges for such use, but believes that firms choosing to use multiple systems to obtain executions should have to pay a reasonable fee for using each system.[26]

B. SOES and SelectNet Cancellation Fee

Commenters criticized the $0.25 ''cancellation'' fee for SOES and SelectNet orders as an unfair charge, and in particular criticized Nasdaq's example of the number of cancellations by a specific firm on a particular day without regard to whether this was an average day, or one with an unusually high number of cancellations.[27] Nasdaq reiterated its belief that those that use a system in such a way as to place a burden on that system should be required to pay for that use.[28] Nasdaq stated that cancellations create traffic in Nasdaq's network and computer processors, and, accordingly, those system users that cancel orders should be required to pay for that use.[29]

C. SelectNet Fees for ECNs

Instinet objected to the NASD's statement in the notice of proposed rule change regarding the imposition of SelectNet charges on ECNs.[30] Specifically, the NASD stated that the $2.50 per trade SelectNet fee will apply to all parties using the system, including ECNs whose priced orders are accessed by NASD members entering orders into SelectNet. Instinet indicated that in making this statement, the NASD has made a unilateral decision that is inconsistent with the Commission's directives to self-regulatory organizations in implementing the Order Handling Rules to ''work expeditiously with ECN's * * * to develop rules or understandings of general applicability'' in constructing a means for compliance with the ECN Display Alternative.[31] Nasdaq responds that in the course of negotiating contracts with ECNs that have sought to display their orders in Nasdaq pursuant to the ECN Linkage, Nasdaq has discussed the matter of fees with the ECNs and arrived at a temporary arrangement regarding SelectNet fees when ECNs execute orders directed to them through the SelectNet Linkage. Nasdaq states, however, that because ECNs are operated by broker-dealers that are NASD members, ECN's sponsors are subscribers to Nasdaq's services (including SelectNet) and are thus subject to general NASD rules, including the fee structure. Nasdaq further states that the footnote was intended to indicate that the SelectNet fee applies to all NASD members that use the service, unless other arrangements are arrived at.[32]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and Nasdaq and, in particular, the requirements of Section 15A, and the rules and regulations thereunder. Specifically, the Commission believes that the proposed rule change is consistent with Section 15A(b)(5) of the Act, which requires that ''the association provide for the equitable allocation of reasonable dues, fees, and other charges among members * * * and other persons using any facility or system which the association operates or controls;'' with Section 15A(b)(6), which requires that the rules of the association be ''designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market;'' and with Section 15A(b)(9) of the Act, which requires that the rules of the association ''not impose any burden on competition not necessary or appropriate in furtherance of [the Act].''

The Commission finds that the NASD and Nasdaq's changes to the current SOES fee structure are consistent with the Act. Specifically, the Commission agrees that the significant changes in the process by which quotes are established and orders are executed resulting from the Commission's Order Handling Rules[33] and the NASD's changes to SOES and the SelectNet recently approved by the Commission[34] warrant a review of SOES and SelectNet fees. In the dynamic environment created by the Commission's Order Handling Rules, the Commission finds that it is reasonable for the NASD to reallocate SOES and SelectNet charges to account for the new source of quotes and the manner in which the systems are being used. The Commission finds the proposed fee of $0.50 to the order entry firm and each market maker participating in the execution of a transaction is an equitable allocation of fees to both sides of the transaction for their use of SOES facilities. The Commission does not believe that the fees inequitably distinguish between market makers and other NASD members, such as order entry firms. The Commission notes that both the market maker and the order entry firm benefit from an execution through SOES at the market maker's quote. Moreover, under the Order Handling Rules, customer orders could be on both sides of a SOES transaction, and so it is equitable to charge both customers for the execution services. While the NASD could have designed its fees in a variety of ways, the Commission finds that the approach adopted results in a non-discriminatory and equitable allocation of fees among market makers and other SOES users. Finally, the Commission also finds that the fee does not impose a burden on competition not necessary or appropriate in furtherance of the Act.

[20] *See* Singer Letter, Momentum Letter, and Grossman Letter.

[21] *See* Nasdaq Letter.

[22] *See* Grossman Letter.

[23] *See* Nasdaq Letter.

[24] *See* Singer Letter.

[25] *See* Singer Letter, A.J. Michaels Letter.

[26] *See* Nasdaq Letter.

[27] *See* Singer Letter, A.J. Michaels Letter.

[28] *See* Nasdaq Letter.

[29] *Id.*

[30] *See* Instinet Letter.

[31] Order Handling Rules Adopting Release, *supra* note 4 at 96.

[32] *See* Nasdaq Letter.

[33] *See* Order Handling Rules Adopting Release, supra note 4.

[34] *See* supra note 5.

Anyone using SOES, whether a market maker displaying its own quotes or a customer limit order, or an order entry firm, who effects a transaction will have to pay $0.50 per order. The cost of using SOES will be the same for all users.

The Commission also finds the institution of a charge of $0.25 for each cancellation entered into SOES and SelectNet to be consistent with the Act. The broadcast of orders that are subsequently cancelled creates the need for increased system capacity in order to ensure the smooth and efficient operation of SOES and SelectNet. The Commission finds that the $0.25 fee imposes a portion of the cost of maintaining system capacity to handle large numbers of cancellations to those firms that create the need for such capacity. The Commission finds that the cancellation fee does not impose a burden on competition not necessary or appropriate in furtherance of the Act. All users of the two systems will bear the same cost for cancellation of orders.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NASD–96–48) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[35]

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7871 Filed 3–27–97; 8:45 am]

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[35] 17 CFR 200.30–3(a)(12).

[Release No. 34–38429; File No. SR–NASD–97–20]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Elimination of the Prohibitions Against NASD Members Accepting Stop Orders and Stop Limit Orders in Exchange-Listed Securities

March 21, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 10, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Currently, paragraph (i)(1) of NASD Rule 6440, ''Trading Practices,'' prohibits NASD members from accepting stop orders[1] in eligible securities.[2] NASD Rule 6440(i)(2) currently allows members to accept stop limit orders[3] in eligible securities where the stop price and the limit price are the same. The NASD proposes to amend NASD Rule 6440(i) to: (1) Allow members to accept stop orders in eligible securities; and (2) eliminate the requirement that the stop price must equal the limit price in order for a member to accept a stop limit order in an eligible security. Below is the text of the proposed rule change. Additions are italicized; deletions are bracketed.

NASD Rule 6440

(a)–(h). No change.

(i) (1) *A* [No] member [shall] *may, but is not obligated to,* accept a stop order in an eligible security.

(A) A buy stop order is an order to buy which becomes a market order when a transaction takes place at or above the stop price.

(B) A sell stop order is an order to sell which becomes a market order when a transaction takes place at or below the stop price.

(2) *A* member[s] may, *but is not obligated to,* accept stop limit orders in eligible securities [where the stop price and the limit price are the same]. When transactions occur at the stop price, the order to buy or sell becomes a limit order at the stop price.

(j) No change.

* * * * *

[1] A buy stop order is an order to buy which becomes a market order when a transaction takes place at or above the stop price. Conversely, a sell stop order is an order to sell which becomes a market order when a transaction takes place at or below the stop price.

[2] Under NASD Rule 6410(d), ''eligible securities'' means all common stocks, preferred stocks, long-term warrants, and rights entitling the holder to acquire an eligible security, listed or admitted to unlisted trading privileges on the American Stock Exchange (''Amex'') or the New York Stock Exchange (''NYSE''), and securities listed on the regional stocks exchanges which substantially meet the original listing requirements of the Amex or the NYSE.

[3] A buy stock limit order is an order to buy that becomes a limit order at the limit price when a transaction occurs at the stop price. Conversely, a sell stop limit order is an order to sell that becomes a limit order at the limit price when a transaction occurs at the stop price.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD proposes to amend NASD Rule 6440 to eliminate current restrictions on the ability of NASD members to accept stop orders and certain stop limit orders in eligible securities. Currently, NASD Rule 6440(i)(1) provides that no NASD member shall accept a stop order in an eligible security; NASD Rule 6440(i)(2) provides that no NASD member shall accept a stop limit order in an eligible security unless the stop price and the limit price are the same. Under the proposed rule change, NASD members will be allowed to accept stop orders in eligible securities and stop limit orders where the stop price and the limit price are not the same. The proposal also clarifies that NASD members are not obligated to accept stop orders or stop limit orders.

The NASD believes there is no economic or regulatory reason to preclude or restrict investors from placing stop orders or stop limit orders in eligible securities. In this connection, the NASD notes that there are no comparable restrictions on the placement of these types of orders in securities listed on The Nasdaq Stock Market (''Nasdaq''). Just as investors in Nasdaq securities are able to receive the protections and benefits that result from placing stop orders and stop limit orders, the NASD believes that investors in the third market should be able to receive the same benefits and protections from placing these types of orders. In particular, through the placement of stop orders and stop limit orders, the NASD believes that investors will be better able to implement their investment strategies and manage their portfolios. Accordingly, the NASD believes its proposal will enhance the protection of investors and the integrity of the market.