application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

**Northeast Utilities, et al. (70–9839)**

Northeast Utilities (''NU''), a registered public utility holding company, Western Massachusetts Electric Company (''WEMCO''), an electric utility subsidiary of NU, both located at 174 Brush Hill Avenue, West Springfield, Massachusetts 01090 and Connecticut Light and Power Company (''CL&P''), an electric utility subsidiary of NU located at 107 Selden Street, Berlin, Connecticut 06037 (collectively, ''Applicants'') have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(c) and rules 42, 43, 44, 46(a) and 54.

Applicants request authorization, through December 31, 2004, for: (1) CL&P to pay dividends to and/or repurchase stock from NU out of capital or unearned surplus in an amount not to exceed $100 million in using the proceeds from the sale of nuclear generating facilities (''Millstone''); (2) CL&P to pay dividends and/or repurchase stock in accordance with the provisions of CL&P's dividend covenant under its first mortgage indenture and deed of trust (''Mortgage Indenture'') [1] dated May 1, 1921 to the Bankers Trust Company as trustee; and (3) WMECO to pay dividends to and/or repurchase stock from NU out of capital or unearned surplus in an amount not to exceed $21 million using proceeds from the sale of nuclear generating facilities.

Applicants note that each of the states in which CL&P and WMECO (collectively, ''Utilities'') operate, Connecticut and Massachusetts, has enacted restructuring legislation (''Restructuring Legislation'') that is intended to deregulate the electric utility industry and provide retail customers with a choice of electricity providers. The Restructuring Legislation strongly encourages the Utilities to, among other things, divest their nuclear and non-nuclear generating assets. The non-nuclear electric generating assets of CL&P and WMECO have been sold. The Utilities are in the process of selling Millstone, a nuclear generating asset. In addition to the proceeds raised from these sales of generating assets, CL&P and WMECO will also receive proceeds from the issuance of rate reduction bonds (''RRBs'') as part of the restructuring process. This application only deals with the use of proceeds from the sale of Millstone.

By order dated March 7, 2000 (HCAR No. 27147), the utility subsidiaries [2] sought and were granted authorization, among other things, to pay dividends to, and/or repurchase shares of their respective stock from NU out of capital or unearned surplus using the proceeds from the sale of non-nuclear generating assets and the issuance of RRBs, despite the lack of sufficient retained earnings. Applicants state that the sale of nuclear assets was not foreseen at the time of the previous filing as resulting in any substantial net cash to the Utilities. However, as a result of the proposed sale of Millstone, the Utilities will experience a significant influx of cash without a corresponding increase in retained earnings. To achieve the cost reduction goals of the Restructuring Legislation, Applicants propose to reduce their common equity capitalizations using a portion of such proceeds.

Applicants state the payment of dividends would not impair the financial integrity of CL&P or WMECO because, after the payment of these dividends, each Utility will still have adequate cash to operate its substantially smaller business. The senior debt ratings of CL&P and WMECO issued by Standard & Poor's were upgraded to ''BBB+'' on January 31, 2001 while the senior debt ratings of CL&P and WMECO issued by Moody's Investor Service Inc. were upgraded to ''Baa1'' on January 23, 2001.

Applicants note that as a result of the proposed transactions, the issuance of rate reduction bonds, and the accounting treatment of the debt relating to the rate reduction bonds, the equity-to-capitalization ratio of CL&P and of NU on a consolidated basis, is expected to fall below the Commission's 30% equity standard. Applicant represents that the companies will adhere to any state commission order requiring a higher equity ratio.[3]

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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**BILLING CODE 8010–01–M**

[1] The Mortgage Indenture provides, among other things, that cash dividends may not be paid on the capital stock of CL&P, or distributions made, or capital stock purchased by CL&P, in an aggregate amount which exceeds CL&P's earned surplus after December 31, 1966, plus the earned surplus of CL&P accumulated prior to January 1, 1967 in amount not exceeding $13,500,000, plus such additional amount as may be authorized or approved by the Commission under the Act.

[2] In addition to CL&P and WMECO, North Atlantic Energy Corporation and Public Service Company of New Hampshire also requested authorization in HCAR No. 27147.

[3] On March 16, 2001, the Connecticut Department of Public Utility Control issued a temporary order requiring CL&P to use the proceeds in a way to result in a common equity ratio for CL&P between 45% and 50% (not including the rate reduction bonds as debt).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44085; File No. SR–CHX–01–05]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated, Relating to the Exchange's SuperMAX 2000 Price Improvement Program

March 19, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 16, 2001, the Chicago Stock Exchange, Incorporated (''CHX'') or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. 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

The Exchange proposes to amend the CHX rules governing its voluntary price improvement program. Specifically, the Exchange proposes to amend Article XX, Rule 37(h) to reduce the determinative spread from $.03 to $.02, thereby increasing the opportunities for price improvement. The text of the proposed rule change is below. Additions are in italic. Deletions are in brackets.

**ARTICLE XX**

*Regular Trading Sessions*

* * * * *

**Guaranteed Execution System and Midwest Automated Execution System**

Rule 37

* * * * *

(h) SuperMax 2000

SuperMAX 2000 shall be a voluntary automatic execution program within the MAX System. SuperMAX 2000 shall be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

available for any security trading on the Exchange in decimal price increments. A specialist may choose to enable this voluntary program within the MAX System on a security-by-security basis.

(1) Pricing

(i) In the event that an order to buy or sell at least 100 shares is received in a security in which SuperMAX 2000 has been enabled, such order shall be executed at the ITS Best Offer or NBO (for a buy order) or the ITS Best Bid or NBB (for a sell order) if the spread between the ITS Best Bid and the ITS Best Offer (or NBB and NBO, for Nasdaq/NM issues) in such security at the time the order is received is less than $.*02* [.03].

(ii) In the event that an order to buy or sell 100 shares is received in a security in which SuperMAX 2000 has been enabled, and the spread between the ITS Best Bid and the ITS Best Offer (or NBB and NBO, for Nasdaq/NM issues) in such security at the time the order is received is $.*02* [.03] or greater, such order shall be executed (subject to the short sale rule) at a price at least $.01 lower than the ITS Best Offer or NBO (for a buy order) or at least $.01 higher than the ITS Best Bid or NBB (for a sell order).

(iii) In the event that an order to buy or sell more than 100 shares is received in a security in which SuperMAX 2000 has been enabled, such order shall be executed at the ITS Best Offer or NBO, or better (for a buy order) or the ITS Best Bid or NBB, or better (for a sell order) as the specialist may designate and as is approved by the Exchange.

* * * * *

## 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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange 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*

1. Purpose

According to the CHX, the primary purpose of the proposed rule change is to increase the number of orders that are eligible for automated price improvement. To this end, the CHX proposes to amend the CHX rules governing its voluntary automated price improvement program, known as SuperMAX 2000, for issues quoting in decimal price increments. Specifically, the Exchange proposes to amend Article XX, Rule 37(h) to reduce the determinative spread from $.03 to $.02, thereby increasing the opportunities for price improvement.

On December 19, 2000, the Commission approved (SR–CHX–00–37),[3] implementing SuperMAX 2000, the CHX's new price improvement program, which will govern price improvement of all orders for issues quoting in decimal price increments. SuperMAX 2000 was designed to afford specialists the flexibility to provide a wide variety of price improvement alternatives, all of which will be equal to or more favorable than alternatives that existed previously. SuperMAX 2000 originally provided for price improvement of at least $.01 on orders of 100 shares where the spread between the national best bid and offer (''NBBO'') was $.03 or greater.

In assessing price improvement offered by other members of the securities industry, the Exchange believes that, in order to be competitive, its specialists must be permitted (but not obligated) to offer price improvement of $.01 or better where the NBBO spread is $.02 or greater. The proposal would not impact orders for more than 100 shares, in which case the specialist's price improvement options are not contingent on a determinative NBBO spread.

The Exchange believes that the proposal will ensure that SuperMAX 2000 provides CHX specialists with the requisite flexibility to respond to customer price improvement requirements in a decimal environment. The CHX also believes that, in a decimal trading environment, where spreads are anticipated to narrow significantly, the proposal will operate to increase the opportunities for price improvement. The proposal contemplates equality among order-sending firms (and their customers) by mandating that additional price improvement be provided by CHX specialists on an issue-by-issue basis; specialists would not be permitted to distinguish among order-sending firms when designating price improvement levels. Moreover, SuperMAX 2000 remains a strictly voluntary price improvement program; specialists who do not wish to participate are not obligated to enable SuperMAX 2000 for any or all issues traded by such specialists.

2. Statutory Basis

The CHX believes the proposed rule change is consistent with Section 6(b)(5) of the Act[4] in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

The CHX has requested accelerated approval of the proposed rule change. While the Commission will not grant accelerated approval at this time, the Commission will consider granting accelerated approval of the proposal at the close of an abbreviated comment period of 15 days from the date of publication of the proposal in the **Federal Register**.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange

[3] Securities Exchange Act Release No. 43742 (December 19, 2000), 65 FR 83119 (December 29, 2000).

[4] 15 U.S.C. 78f(b)(5).

Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR–CHX–01–05 and should be submitted by April 9, 2001.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–7255 Filed 3–22–01; 8:45 am]

**BILLING CODE 8010–01–M**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44082; File No. SR–ISE–01–05]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the International Securities Exchange LLC Relating to Minimum Activity Fees

March 15, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 2, 2001, the International Securities Exchange LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change. The Exchange submitted Amendment No. 1 to its proposed rule change on March 13, 2001.[3] The proposed rule change, as amended, is described in Items I, II, and III below, which items have been prepared by the Exchange. 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

The Exchange is proposing to delay the effectiveness of its fee regarding inactive primary market maker (''PMM'') memberships.

### 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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed by any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE 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*

1. Purpose

In November 2000, the Exchange adopted a change to its fee schedule that subjected PMMs to a $100,000 monthly fee if the group of options (''bins'') to which they are appointed has not been opened for trading. The purpose of this fee is to provide the Exchange with revenue that is foregone when a bin is inactive. In particular, the fee helps the Exchange recoup lost transaction and access charges. This inactive PMM fee became effective on January 1, 2001. At the time the fee was adopted, there were three PMM memberships that were inactive. Two of those memberships became active during January 2001, and accordingly were not subject to the $100,000 fee.

With respect to the one remaining inactive PMM membership, the Exchange proposes to delay application of the $100,000 fee until May 7, 2001 to give this membership additional time to begin trading. The two PMM memberships that began trading in January were owned or leased by ISE members that had been approved as market makers on the Exchange. Thus, the ability to initiate trading was completely within those members' control.

In contrast, the one PMM membership that remains inactive is owned by an entity that is not a registered broker-dealer and therefore, could not itself initiate trading activities on the ISE. Moreover, this owner is affiliated with a member that is currently operating two PMM memberships and would therefore, be prohibited under ISE's concentration limits for operating a third membership. Accordingly, the PMM membership must be leased or sold to a registered broker-dealer member of the ISE that is an approved market maker before trading activities with respect to the membership can be initiated.

The Exchange proposes to extend the effective date of the $100,000 inactive PMM fee to May 7, 2001 with respect to any PMM membership that is owned by a person or entity that is prohibited from conducting trading activities under ISE Rules and the membership has not been leased to a member that is approved as a market maker on the Exchange. The one currently inactive PMM membership is the only membership that would be affected by the delayed effective date. While the Exchange forgoes revenue with respect to this membership, the activation of the membership is not completely within the control of the owner, as a qualified buyer or lessee for the membership must be identified. The Exchange therefore believes that an owner in this circumstance should be given additional time to activate the membership as compared to an entity that chooses not to exercise its trading rights.[4]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[5] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In addition, the basis for the rule change is Section 6(b)(4)[6] of the Act that requires an exchange to have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange amended the proposal to submit the proposed rule change pursuant to Rule 19b–4(f)(1). *See* Letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Kathy England, Assistant Director, Division of Market Regulation, Commission, dated March 12, 2001.

[4] This rule change will affect only PMMs on the exchange, and all PMMs whose trading activity either was affected by this fee or will be subject to the delay in the application of the fee have representatives on the Board of Directors. All such directors supported the adoption of this proposed rule change.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(4).