

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.<sup>4</sup>

**Jonathan G. Katz,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the Pacific Exchange, Inc. (Progress Energy, Inc., Common Stock, No Par Value) File No. 1-15929

April 4, 2002.

Progress Energy, Inc., a North Carolina corporation ("Issuer"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 12d2-2(d) thereunder,<sup>2</sup> to withdraw its Common Stock, no par value ("Security"), from listing and registration on the Pacific Exchange, Inc. ("PCX" or "Exchange").

The Issuer stated in its application that it has complied with PCX Rule 5.4(b) that governs the removal of securities from listing and registration on the Exchange. In making the decision to withdraw the Security from listing and registration on the PCX, the Issuer considered the direct and indirect costs associated with maintaining dual listings. The Issuer stated in its application that it will maintain its listing on the New York Stock Exchange ("NYSE"). The Issuer's application relates solely to the Security's withdrawal from listing on the PCX and shall not affect its listing on the NYSE or registration under Section 12(b) of the Act.<sup>3</sup>

Any interested person may, on or before April 26, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609, facts bearing upon whether the application has been made in accordance with the rules of the PCX 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.<sup>4</sup>

**Jonathan G. Katz,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45692; File No. SR-Amex-2002-15]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC To Amend Commentary .02(c) of Rule 901C To Include Volume Weighted Average Pricing as a Permissible Index Option Settlement Value Calculation Methodology

April 4, 2002.

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> notice is hereby given that on March 5, 2002, the American Stock Exchange LLC ("Amex" 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 Amex proposes to amend Commentary .02(c) of Amex Rule 901C to add volume weighted average pricing ("VWAP") as a permissible index option settlement value calculation methodology. The text of the proposed rule change is below. Proposed new language is in italics.

\* \* \* \* \*

#### Designation of Stock Index Options

Rule 901C

(a)-(c) No change.

#### Commentary

.01 No change.

.02 The Exchange has received approval, pursuant to the Securities Exchange Act of 1934 ("Act"), to list options on stock industry index groups pursuant to Rule 19b-4(e) of the Act provided each of the following criteria are satisfied:

(a) No change.

(b) No change.

(c) Expiration and Settlement—Options on an index established pursuant to this Commentary will be cash settled and the index value for purposes of settling a specific index option will be calculated based upon *either* the primary exchange regular way opening sale prices for the component stocks *or the primary exchange regular way opening sale prices for components listed on a national securities exchange and volume weighted average prices for component stocks listed on NASDAQ/NMS.*

(d) No change.

\* \* \* \* \*

#### 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

The Exchange proposes to amend Commentary .02(c) to Amex Rule 901C to add VWAP as a permissible index option settlement value calculation methodology. Currently, Commentary .02(c) of Amex Rule 901C provides that index settlement values are determined by using the regular way opening sale price for each of an index's component stocks in its primary market on the last trading day prior to expiration.<sup>3</sup> Unlike exchange-listed securities where there is a market opening price at which all

<sup>3</sup> See, e.g., Securities Exchange Act Release No. 36283 (September 26, 1995), 60 FR 51825 (October 3, 1995) (SR-Amex-95-26) (order approving the listing and trading of options on the Morgan Stanley High Technology 35 Index).

<sup>4</sup> 17 CFR 200.30-3(a)(1).

<sup>1</sup> 15 U.S.C. 78j(d).

<sup>2</sup> 17 CFR 240.12d2-2(d).

<sup>3</sup> 15 U.S.C. 781(b).

<sup>4</sup> 17 CFR 200.30-3(a)(1).

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

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