

**RAILROAD RETIREMENT BOARD****Agency Forms Submitted for OMB Review**

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

**Summary of Proposal(s):**

*Collection title:* Evidence of Marital Relationship—Living with Requirements.

*Form(s) submitted:* G-124, G-124a, G-237, G-238, and G-238a.

*OMB Number:* 3220-0021.

*Expiration date of current OMB clearance:* 1/31/2003.

*Type of request:* Extension of a currently approved collection.

*Respondents:* Individuals or households, state, local or tribal government.

*Estimated annual number of respondents:* 1,100.

*Total annual responses:* 1,100.

*Total annual reporting hours:* 196.

*Collection description:* Under the RRA, to obtain a benefit as a spouse of an employee annuitant or as the widow(er) of the deceased employee, applicants must submit information to be used in determining if they meet the marriage requirements for such benefits. The collection obtains information supporting claimed common-law marriage, termination of previous marriages and residency requirements.

**FOR FURTHER INFORMATION CONTACT:**

Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611-2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

**Chuck Mierzwa,**

*Clearance Officer.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-46674; File No. SR-OPRA-2002-05]

**Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Plan Regarding Policies for Device-Based Fees**

October 17, 2002.

Pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on October 4, 2002, the Options Price Reporting Authority ("OPRA")<sup>2</sup> submitted to the Securities and Exchange Commission ("SEC" or "Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA Plan"). The proposed OPRA Plan amendment would supplement OPRA's form of Professional Subscriber Agreement with a new document entitled "Policies With Respect To Device-Based Fees" (referred to in this filing as the "Device-Based Fees Policies"). The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment.

**I. Description and Purpose of the Amendment**

The purpose of the proposed amendment to OPRA's national market system plan is to state in writing certain OPRA policies with respect to the way in which OPRA calculates "device-based fees" that are paid by Professional Subscribers.<sup>3</sup> The policies reflect

<sup>1</sup> 17 CFR 240.11Aa3-2.

<sup>2</sup> OPRA is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3-2 thereunder. See Securities Exchange Act Release No. 17638 (Mar. 18, 1981). The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the member exchanges. The five participants to the OPRA Plan that operate an options market are the American Stock Exchange LLC, the Chicago Board Options Exchange, Inc., the International Securities Exchange LLC, the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc. The New York Stock Exchange, Inc. is a signatory to the OPRA Plan, but sold its options business to the CBOE in 1997. See Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

<sup>3</sup> In essence, an OPRA Professional Subscriber may pay fees for its receipt of OPRA data in one of three ways. The first two ways are available to a Professional Subscriber that enters into a Professional Subscriber Agreement directly with OPRA; such a Subscriber pays fees for the receipt of OPRA data directly to OPRA, with the fees calculated using either "device-based" rates (the subject of the Device-Based Fees Policies) or "enterprise" rates (rates that are calculated on the basis of the number of "registered representatives"

existing OPRA practice, but OPRA has not previously reduced them to writing. OPRA has developed the Device-Based Fees Policies to make information with respect to its calculation of device-based fees more easily accessible to Professional Subscribers. The Device-Based Fees Policies address four subjects relating to device-based fees:

(a) *The Use of "User IDs" as a Surrogate or Supplement for Devices for Purposes of Calculating Device-Based Fees*

As the term "device-based" suggests, the basic method for calculating a Professional Subscriber's device-based fees is to determine the number of devices that the Professional Subscriber has that are capable of receiving OPRA information. However, OPRA permits Professional Subscribers to count "User IDs" as a surrogate or supplement for counting devices for purposes of calculating OPRA fees. A Professional Subscriber that wishes to count User IDs must comply with certain requirements, which are described in the Device-Based Fees Policies.

(b) *The Manner in Which OPRA Bills for the Use of OPRA Data by Entities That Are Affiliated With Each Other*

OPRA's policy is to permit a parent entity's status as a Professional Subscriber to encompass its wholly-owned subsidiaries. In all other situations OPRA's policy is to conduct its relationships with Professional Subscribers and other persons on an "entity-by-entity" basis, and not on a "family of affiliates" basis. The Device-Based Fees Policies describe two specific ways in which these policies may apply to the calculation of device-based fees. The first has to do with the aggregation of devices and/or User IDs across affiliated entities for purposes of determining the applicable device-based rate. The second relates to the availability of OPRA's member rate schedule for OPRA's Basic Service in a situation where either a parent entity is a member of an OPRA Exchange but its wholly-owned subsidiary is not (in this case, the member rate schedule is available for the parent and the subsidiary) or the parent entity is not a member of an OPRA Exchange but its

that work for the Professional Subscriber, subject to a monthly minimum). The third way is available to a Professional Subscriber that enters into an agreement with an OPRA vendor in a form prescribed by or that is acceptable to OPRA. In that case, the Vendor pays "usage-based" fees to OPRA (fees based on the volume of usage of OPRA data through the Vendor's service) for the Professional Subscriber's use of OPRA information, and the Professional Subscriber pays fees to the Vendor under the financial arrangements that they establish.