

**DEPARTMENT OF NUCLEAR REGULATORY COMMISSION****Sunshine Act; Meeting****DATE:** Week of July 26, 2004.**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland**STATUS:** Public and Closed**MATTERS TO BE CONSIDERED:****Week of July 26, 2004***Thursday, July 29, 2004*

9:25 a.m. Affirmation Session (Public Meeting)

a: Duke Energy Corp. (Catawba Nuclear Station, Units 1 and 2); NRC Staff's Petition for Interlocutory Review of the Licensing Board's June 25, 2004 Oral Order (Finding the Intervenor's Witness Qualified as an Expert in the Area of Nuclear Security)

9:30 a.m. Discussion of Security Issues (Closed-Ex. 1)

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Dave Gamberoni, (301) 415–1651.

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*Additional Information:*

By a vote of 3–0 on July 26, the commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Discussion of Security Issues (Closed—Ex. 1)" be held July 29, and on less than one week's notice to the public.

By a vote of 3–0 on July 27, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Duke Energy Corp. (Catawba Nuclear Station, Units 1 and 2); NRC Staff's Petition for Interlocutory Review of the Licensing Board's June 25, 2004 Oral Order (Finding the Intervenor's Witness Qualified as an Expert in the Area of Nuclear Security)" be held July 29, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/what-we-do/policy-making/schedule.html>.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator,

August Spector, at 301–415–7080, TDD: 301–415–2100, or by e-mail at [aks@nrc.gov](mailto:aks@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [dkw@nrc.gov](mailto:dkw@nrc.gov).

Dated: July 27, 2004.

**Dave Gamberoni,**

*Office of the Secretary.*

[FR Doc. 04–17479 Filed 7–28–04; 8:45 am]

**BILLING CODE 7590–01–M**

**POSTAL RATE COMMISSION****Facility Tours****AGENCY:** Postal Rate Commission.**ACTION:** Notice of Commission visit.

**SUMMARY:** Postal Rate Commissioners and staff members will tour a bulk mail facility in Seattle, Washington, and bypass mail facilities in Anchorage and Fairbanks, Alaska, in mid-August. They also will observe the preparation of mail for delivery from Anchorage, Bethel, and Fairbanks, Alaska. The purpose is to familiarize attendees with postal operations in the Northwest and with the challenges entailed in delivering mail to remote areas in Alaska.

**DATES:** August 13 through August 18, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Stephen L. Sharfman, General counsel, 202–789–6818.

Dated: July 27, 2004.

**Steven W. Williams,**

*Secretary.*

[FR Doc. 04–17400 Filed 7–29–04; 8:45 am]

**BILLING CODE 7710–FW–M**

**SECURITIES AND EXCHANGE COMMISSION****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 2, 2004: Closed Meetings will be held on Tuesday,

August 3, 2004, at 2 p.m. and Thursday, August 5, 2004, at 2 p.m.

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

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meetings.

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

The subject matter of the Closed Meeting scheduled for Tuesday, August 3, 2004, will be:

Formal orders of investigations; Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

The subject matter of the Closed Meeting scheduled for Thursday, August 5, 2004, will be:

Formal orders of investigations; Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

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: July 27, 2004.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 04–17458 Filed 7–27–04; 4:25 pm]

**BILLING CODE 8010–01–P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–50081; File No. SR-Amex–2004–51]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC To Apply the Current Member Firm Guarantee for Equity Options to Index Options**

July 26, 2004.

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 June 30, 2004, 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 Exchange proposes to amend Commentary .02(d) to Amex Rule 950(d) to apply the current member firm guarantee for equity options to index options traded on the Exchange. The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

#### **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 had 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 purpose of the proposed rule change is to extend the Exchange’s current participation or member firm guarantee to index options. As further discussed below, the member firm guarantee provides that a floor broker representing a member firm seeking to facilitate its own customer’s order is entitled to a participation guarantee of 20% if the order is traded at the best bid or best offer (the “BBO”) provided by the trading crowd, or 40% if the order is traded at a price that improves the trading crowd’s market, *i.e.*, at a price between the BBO. Amex is proposing to amend Commentary .02(d) to Amex Rule 950(d), which sets forth the current member firm guarantee for equity

options, to extend its application to index options traded on the Exchange.

In April 2003,<sup>3</sup> the Exchange received permanent approval of its pilot program relating to the member firm guarantee initially approved by the Commission on June 2, 2000.<sup>4</sup> Commentary .02(d) to Amex Rule 950(d) governs the applicability of member firm guarantees in facilitation cross transactions in equity options and sets forth the member firm guarantee percentages.<sup>5</sup>

The rule provides a floor broker, under certain conditions, the ability to cross a specified percentage of the customer order on behalf of a member firm before the specialist and/or registered options traders in the crowd can participate in the transaction, *i.e.*, the member firm guarantee. The provision generally applies to orders of 400 contracts or more. The Exchange, however, is permitted to establish smaller eligible order sizes, on a class-by-class basis, provided that the size is not for fewer than 50 contracts.

The amount of the guaranteed participation percentage depends upon a comparison of the original market quoted by the trading crowd in response to a request from the floor broker and the price at which the order is traded. If the order is traded at the BBO provided by the trading crowd in response to the floor broker’s initial request for a market, then the floor broker is entitled to cross 20% of the order. If the order is traded at a price that improves the market provided by the trading crowd in response to the floor broker’s initial request for a market, then the floor broker is entitled to cross 40% of the order. In addition, the facilitating member firm may participate in the executed contracts only after public customer orders on the specialist’s book or represented by a floor broker in the crowd have been filled.

Currently, the member firm guarantee applies only to orders in equity options. The instant proposal would extend the member firm guarantee to index options. Thus, for index option orders, floor brokers similarly would be guaranteed a participation of 20% if the order is traded at the BBO, or 40% if the order improves the market. All other rules concerning the member firm guarantee that currently apply to equity

options would also apply to index options. The Exchange believes that the proposed expansion of the member firm guarantee to index options will provide greater incentive for order flow providers to bring order flow to the Exchange.

###### **2. Statutory Basis**

The Exchange believes the proposed rule change is consistent with section 6 of the Act,<sup>6</sup> in general, and furthers the objectives of section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the Act.

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

No written comments were solicited or received with respect to the proposed rule change.

#### **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.

#### **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. Comments may be submitted by any of the following methods:

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

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

<sup>3</sup> See Securities Exchange Act Release No. 47643 (April 7, 2003), 68 FR 17970 (April 14, 2003).

<sup>4</sup> See Securities Exchange Act Release No. 42894 (June 2, 2000), 65 FR 36850 (June 12, 2000).

<sup>5</sup> Facilitation cross transactions occur when a floor broker representing the order of a public customer of a member firm crosses that order with a contra side order from the firm’s proprietary account.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

**Electronic Comments**

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2004-51 on the subject line.

**Paper Comments**

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-Amex-2004-51. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR-Amex-2004-51 and should be submitted on or before August 20, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

Deputy Secretary.

[FR Doc. 04-17388 Filed 7-29-04; 8:45 am]

BILLING CODE 8010-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-50079; File No. SR-CBOE-2004-44]

**Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Permanent Approval of the \$5 Quote Width Pilot Program**

July 26, 2004.

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 July 19, 2004, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

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

In January 2004, the CBOE implemented a pilot program ("Pilot Program"), which expires on July 29, 2004, that permits quote spread parameters of up to \$5, regardless of the price of the bid, for up to 200 options classes traded on the CBOE's Hybrid Trading System ("Hybrid").<sup>3</sup> The CBOE subsequently expanded the Pilot Program to include all options classes traded on Hybrid<sup>4</sup> and limited the applicability of the \$5 quote spreads permitted under the Pilot Program to quotations that are submitted electronically to Hybrid.<sup>5</sup> The CBOE requests permanent approval of the Pilot Program.

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

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

<sup>3</sup> See Securities Exchange Act Release Nos. 49153 (January 29, 2004), 69 FR 5620 (February 5, 2004) (notice of filing and immediate effectiveness of File No. SR-CBOE-2003-50) ("Pilot Notice"); and 49919 (June 25, 2004), 69 FR 40424 (notice of filing and immediate effectiveness of File No. SR-CBOE-2004-36) (extending the Pilot Program through July 29, 2004).

<sup>4</sup> See Securities Exchange Act Release No. 49318 (February 25, 2004), 69 FR 10085 (March 3, 2004) (notice of filing and immediate effectiveness of File No. SR-CBOE-2004-10) ("February Notice").

<sup>5</sup> See Securities Exchange Act Release No. 49791 (June 2, 2004), 69 FR 32389 (June 9, 2004) (order approving File No. SR-CBOE-2004-20) ("June Order").

**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 III 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 Pilot Program became effective in January 2004 and designated 200 options classes that could be quoted with a difference not to exceed \$5 between the bid and offer regardless of the price of the bid.<sup>6</sup> In February 2004, the CBOE expanded the number of options classes in the Pilot Program to include all options classes trading on Hybrid.<sup>7</sup> The CBOE subsequently limited the applicability of the \$5 quote spreads permitted under the Pilot Program to quotations that are submitted electronically to Hybrid.<sup>8</sup>

The Pilot Program expires on July 29, 2004. As part of the Pilot Program, the CBOE prepared and submitted to the Commission a report assessing the operation of the Pilot Program and, in particular, the quality of the quotations for the options included in the Pilot Program. Specifically, the CBOE's Pilot Program report compared and analyzed the Average Quote Width Analysis ("AQWA") scores for each stock included in the Pilot Program prior to the implementation of the Pilot Program and during the operation of the Pilot Program.

According to the CBOE, the Pilot Program report indicates that the implementation of \$5 quote widths had no deleterious effects on average quote widths during the pilot period. To the contrary, the CBOE maintains that the implementation of the Pilot Program had little, if any, effect on average AQWA scores.

The CBOE believes that the Pilot Program has been successful and has helped to contribute to the maintenance of efficient markets. The CBOE notes

<sup>6</sup> See Pilot Notice, *supra* note 3.

<sup>7</sup> See February Notice, *supra* note 4.

<sup>8</sup> See June Order, *supra* note 5.

<sup>9</sup> 17 CFR 200.30-3(a)(12).