

Columbia Gas of Pennsylvania, Inc. and Columbia Gas of Virginia, Inc. Together, these companies provide gas utility service to approximately 2.2 million residential, commercial and industrial customers in portions of Ohio, Virginia, Pennsylvania, Maryland and Kentucky. Columbia Energy also directly or indirectly owns all of the outstanding securities of non-utility subsidiaries that are engaged in natural gas transportation and storage and other energy and gas-related activities.

By prior Commission order dated August 23, 1999 (HCAR No. 27064) ("Prior Order"), Columbia Energy was authorized to engage in the business of factoring customer accounts receivable ("Receivables") through one or more existing or newly formed or acquired, direct or indirect subsidiaries ("Factoring Subsidiaries") to supplement customer financings and other intrasystem financing activities, which are not deemed to require additional Commission approval. Columbia Energy was also authorized to capitalize the Factoring Subsidiaries with any combination of debt or equity or to provide guarantees for their obligations, in amounts that, in the aggregate do not exceed \$25 million. In addition, Columbia Energy was permitted to factor the Receivables of associate and certain types of non-associate companies in the energy industry, subject to certain limitations. To date, the Factoring Subsidiaries have not factored Receivables for non-associate companies, and Columbia states that the Factoring Subsidiaries will not be used to purchase Receivables originated by non-associate companies, without prior Commission order. Under the Prior Order, the Factoring Subsidiaries were required to resell the Receivables to third party financial institutions ("Purchasers") on the date the Receivables were acquired. Under the Prior Order, Columbia is also required to report the acquisition and sale of all Receivables as "sales" under generally accepted accounting principles. In order to achieve true "sale" treatment, Columbia states that a Factoring Subsidiary must be capitalized with a sufficient level of equity.

Pursuant to the Prior Order, in September 1999, Columbia Energy, through its financing subsidiary, Columbia Finance Corporation, organized and acquired the common stock of Columbia Accounts Receivable Corporation ("CARC") to handle the sale of Receivables by Columbia Ohio. Under its agreement with CARC, Columbia Ohio sold, without recourse, all of its trade receivables, other than

certain low-income payment plan receivables, as they were originated. CARC, in turn, entered into an agreement under which it sold an undivided ownership interest in the Receivables to a commercial paper conduit formed by Canadian Imperial Bank of Commerce ("CIBC").

Effective May 13, 2004, Columbia Ohio, CARC and CIBC terminated the existing Receivables sale program, and all right, title and interest of CARC and the CIBC conduit in the Receivables were transferred back to Columbia Ohio. The next day, Columbia Ohio sold the same Receivable pool to a new Factoring Subsidiary of Columbia Ohio, Columbia of Ohio Receivables Corporation ("CORC"), which in turn sold an undivided interest in such Receivables to Beethoven Funding Corporation ("BFC"), as Purchaser. BFC is a commercial paper funding conduit formed by Dresdner Bank AG, New York Branch, as agent. Columbia Energy states that the new Receivables sale program operates substantially similar to the CIBC program that it replaced.

Pursuant to the terms of the sale agreement between Columbia Ohio and CORC, on the initial closing date, Columbia Ohio made a capital contribution of Receivables having an aggregate outstanding balance of \$25 million. On or before November 14, 2004, Columbia Ohio is obligated to make an additional \$15 million capital contribution, in the form of a contribution of Receivables.

Columbia now requests a supplemental order authorizing an increase in the maximum aggregate capitalization that Columbia may have, directly or indirectly, in all Factoring Subsidiaries from the current \$25 million to \$85 million. Columbia requests that the Commission authorize Columbia Ohio to make an incremental \$15 million investment in CORC and reserve jurisdiction over the additional requested investment of \$45 million whether in CORC or in any other Factoring Subsidiary, pending completion of the record. In addition, without further order of the Commission in this proceeding, Columbia states it will not, directly or indirectly, form or acquire the securities of any Factoring Subsidiary other than CORC, nor will CORC be used to purchase receivables originated by any company other than Columbia Ohio. Columbia requests that the Commission reserve jurisdiction, pending completion of the record, over (i) the formation and acquisition of any securities of any Factoring Subsidiary other than CORC and (ii) the factoring by CORC of receivables originated by

any company other than Columbia Ohio.

Columbia states that the increase in the maximum aggregate capitalization for CORC is warranted in part due to the dramatic increase in the cost of gas since 1999, when the Prior Order was issued. Columbia states that it expects that the price of gas will continue to increase. All other terms, conditions and restrictions under the Prior Order will continue to apply to Columbia Energy and its subsidiaries.

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

J. Lynn Taylor,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50119; File No. SR-NASD-2004-113]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify Nasdaq Market Center Pricing

July 29, 2004.

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 July 26, 2004, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), 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 Nasdaq. Nasdaq has designated this proposal as one establishing or changing a due, fee or other charge imposed by the self-regulatory organization under section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the rule effective upon Commission receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

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

Nasdaq proposes to modify the pricing for trading of Nasdaq-listed securities in the Nasdaq Market Center. Nasdaq plans to implement the

proposed rule change on August 2, 2004.
The text of the proposed rule change is below.⁵ Proposed new language is in italics; proposed deletions are in brackets.

Rule 7010. System Services
(a)—(h) No change.
(i) Nasdaq Market Center order execution.
(1) The following charges shall apply to the use of the order execution services of the Nasdaq Market Center by members for Nasdaq-listed securities:

Order Entry:	
Non-Directed Orders (excluding Preferred Orders)	No charge.
Preferred Orders:	
Preferred Orders that access a Quote/Order of the member that entered the Preferred Order.	No charge.
Other Preferred Orders	\$0.02 per order entry.
Directed Orders	\$0.10 per order entry.
Order Execution:	
Non-Directed or Preferred Order that accesses the Quote/Order of a market participant that does not charge an access fee to market participants accessing its Quotes/Orders through the Nasdaq Market Center:	
Charge to member entering order:	
Average daily shares of liquidity provided through the Nasdaq Market Center by the member during the month:	
400,000 or less	\$0.003 per share executed (but no more than \$120 per trade for trades in securities executed at \$1.00 or less per share).
400,001 to 5,000,000	\$0.0027 per share executed (but no more than \$108 per trade for trades in securities executed at \$1.00 or less per share).
5,000,001 or more	\$0.0026 per share executed (but no more than \$104 per trade for trades in securities executed at \$1.00 or less per share).
Credit to member providing liquidity:	
Average daily shares of liquidity provided through the Nasdaq Market Center by the member [from April 15 to April 30, 2004, or] during [any] <i>the</i> month [thereafter]:	
[20] 18,000,000 or less	\$0.002 per share executed (but no more than \$80 per trade for trades in securities executed at \$1.00 or less per share).
[20] 18,000,001 or more	\$0.0025 per share executed (but no more than \$100 per trade for trades in securities executed at \$1.00 or less per share).
Non-Directed or Preferred Order that accesses the Quote/Order of a market participant that charges an access fee to market participants accessing its Quotes/Orders through the Nasdaq Market Center:	
Charge to member entering order:	
Average daily shares of liquidity provided through the Nasdaq Market Center by the member during the month:	
400,000 or less	\$0.001 per share executed (but no more than \$40 per trade for trades in securities executed at \$1.00 or less per share).
400,001 or more	\$0.001 per share executed (but no more than \$40 per trade for trades in securities executed at \$1.00 or less per share, and no more than \$10,000 per month).
Directed Order	\$0.003 per share executed.
Non-Directed or Preferred Order entered by a member that accesses its own Quote/Order submitted under the same or a different market participant identifier of the member.	No charge.
Order Cancellation:	
Non-Directed and Preferred Orders	No charge.
Directed Orders	\$0.10 per order cancelled.

(2)–(3) No change.

(j)–(u) No change.

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

In its filing with the Commission, Nasdaq 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. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

⁵ The proposed rule change is marked to show changes from the rule as it appears in the NASD

Manual available at www.nasd.com, and also reflects the proposed rule changes in SR-NASD-

2004-076. See Securities Exchange Act Release No. 50074 (July 23, 2004).

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

1. Purpose

Nasdaq recently implemented reduced pricing for execution of Non-Directed and Preferred Orders for Nasdaq-listed securities in the Nasdaq Market Center, by reducing order execution fees and increasing liquidity provider credits for members that provide significant liquidity through the Nasdaq Market Center.⁶ Under the fee schedule currently in effect, the per share fee charged to a member to access liquidity and the credit for providing liquidity during a particular month both depend on the extent to which such member provided liquidity through the Nasdaq Market Center during that month. Thus, if a member provides a daily average of more than 5,000,000 shares of liquidity through the Nasdaq Market Center during a month, the member currently pays \$0.0026 per share executed in trades during that month in which the member accesses liquidity provided by a market participant that does not charge an access fee (*i.e.*, in which the member's Non-Directed or Preferred Orders access the Quotes/Orders of other market participants).⁷ If a member provides a daily average of 400,001 to 5,000,000 shares of liquidity during a month, the member pays \$0.0027 per share executed in trades executed during the month in which the member accesses liquidity provided by a market participant that does not charge an access fee.⁸ Finally, if a member provides a daily average of 400,000 or fewer shares during a month, the member pays \$0.003 per share executed during the month.⁹

Similarly, the fee paid by a member to access the Quote/Order of a market participant that charges an access fee depends upon the shares of liquidity provided by the member during that month. If a member provides a daily average of more than 400,000 shares of

liquidity during a month, the member will pay \$0.001 per share executed for trades during the month in which the member accesses liquidity provided by a market participant that charges an access fee;¹⁰ however, the member's total charge for that month will be capped at \$10,000. If a member provides a daily average of 400,000 shares of liquidity or less during a month, the member will also pay \$0.001 per share, but no monthly cap will be applicable.¹¹

Finally, the credit provided to a member that provides the liquidity for an execution and does not charge an access fee also depends upon the shares of liquidity provided by the member during the month. Under the current fee schedule, during a month in which a member that does not charge an access fee provides a daily average of more than 20,000,000 shares of liquidity, the credit for transactions in which the member provided liquidity is \$0.0025 per share executed.¹² For firms providing lower levels of liquidity, the credit is \$0.002 per share executed.¹³

During the course of 2004, the volume of trades in Nasdaq-listed securities through all venues that trade them has been steadily decreasing. Thus, marketwide volumes have decreased from an average daily volume of approximately 2.3 billion shares in January 2004, to approximately 1.9 billion shares in April, to 1.7 billion shares during the second week of July. As a result, it has become increasingly difficult for members to achieve the average daily volume requirement of more than 20 million shares required for the enhanced liquidity provider credit. In response, Nasdaq is proposing to change the threshold at which the \$0.0025 per share credit becomes available from 20,000,001 shares per day to 18,000,001 shares per day. Nasdaq is also deleting references to the last half of April 2004 in the current rule text, which were originally needed to allow the implementation of SR-NASD-2004-062 during the middle of the month of April.¹⁴ Because SR-NASD-2004-113 will take effect at the beginning of August 2004 and will therefore be in effect for an entire month, similar references are not needed.

¹⁰ The maximum per transaction charge for a low-priced trade is \$40.

¹¹ The maximum per transaction charge for a low-priced trade is \$40.

¹² When the credit is \$0.0025, the maximum credit for a low-priced trade is \$100.

¹³ When the credit is \$0.002, the maximum credit for a low-priced trade is \$80.

¹⁴ See note 6, *supra*.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,¹⁵ in general, and with section 15A(b)(5) of the Act,¹⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. The proposed rule change bases the level of credits for providing liquidity through the Nasdaq Market Center on the extent to which a member provides liquidity during the month, thereby taking account of the lower per share costs and enhanced revenue opportunities associated with higher volumes of liquidity provision. The change will adjust the level of liquidity provision at which an enhanced credit of \$0.0025 per share is made available, to take account of a decrease in marketwide trading volumes.

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

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act¹⁷ and subparagraph (f)(2) of Rule 19b-4 thereunder,¹⁸ because it establishes or changes a due, fee, or other charge imposed by the self-regulatory organization. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

¹⁵ 15 U.S.C. 78o-3.

¹⁶ 15 U.S.C. 78o-3(b)(5).

¹⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁸ 17 CFR 240.19b-4(f)(2).

⁶ Securities Exchange Act Release No. 49603 (April 22, 2004), 69 FR 23844 (April 30, 2004) (SR-NASD-2004-062); Securities Exchange Act Release No. 48972 (December 22, 2003), 68 FR 75301 (December 30, 2003) (SR-NASD-2003-185).

⁷ Transactions in a security priced under \$1.00 ("low-priced trades") are subject to fee caps applicable to trades in excess of 40,000 shares. Accordingly, when the fee that the member pays is \$0.0026, the maximum per transaction charge for a low-priced trade is \$104.

⁸ When the fee that the member pays is \$0.0027, the maximum per transaction charge for a low-priced trade is \$108.

⁹ When the fee that the member pays is \$0.003, the maximum per transaction charge for a low-priced trade is \$120.

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:

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. Please include File Number SR-NASD-2004-113 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-NASD-2004-113. 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 NASD. 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 available publicly. All submissions should refer to File Number SR-NASD-2004-113 and should be submitted on or before August 25, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-17771 Filed 8-3-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 50109; File No. SR-NYSE-2004-35]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to a Specialist License Fee for Investment Company Units

July 28, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,

PRICE LIST

<i>Specialist License Fee</i>	<i>Specialist License Fee—payment by the specialist allocated an issue of Investment Company Units of any license fee payable by the Exchange to a third party in connection with trading on the Exchange of such issue pursuant to unlisted trading privileges—billed quarterly.*.</i>	<i>As of July 1, 2004 through December 31, 2004, 100% of the amount payable by the Exchange, provided that the amount billed to the specialist for the third and fourth quarters of 2004 will not exceed the amount payable by the Exchange for the first and second quarters of 2004; as of January 1, 2005, 50% of the amount payable by the Exchange.</i>
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* A license fee applicable to multiple issues of Investment Company Units allocated to more than one specialist will be apportioned to such specialists based on the consolidated share volume represented by each issue subject to such license fee.

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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 NYSE 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 NYSE 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 currently trades a number of issues of ICUs, also known as exchange-traded funds, for which the

("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 30, 2004, the New York Stock Exchange, Inc. ("NYSE" 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 NYSE proposes to charge a Specialist License Fee to the specialist allocated an issue of investment company units ("ICUs") for which the Exchange pays a license fee to a third party in connection with trading of such series on the Exchange pursuant to unlisted trading privileges.³ The text of the proposed rule change is provided below. Proposed new language is *italicized*.

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¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The NYSE represents that currently it does not incur third-party license fees for listed ICUs. Telephone conversation between Michael Cavalier,

Assistant General Counsel, NYSE, and Frank N. Genco, Division of Market Regulation, Commission, on July 27, 2004.