

The Information Circular will also disclose the trading hours of the Shares and that the NAV for the Shares will be calculated after 4 p.m. ET each trading day. The Information Circular will disclose that information about the Shares and the corresponding Indexes will be publicly available on the Shares' Web site.

## 2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act<sup>17</sup> in general and Section 6(b)(5) of the Act<sup>18</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission has approved the NYSE Arca, Inc. listing and trading of the Shares.<sup>19</sup>

In addition, Nasdaq believes that the proposal is consistent with Rule 12f-5 under the Act<sup>20</sup> because it deems the Shares to be an equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities.

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

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

### 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

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the

Act<sup>21</sup> and Rule 19b-4(f)(6) thereunder.<sup>22</sup>

Nasdaq has asked the Commission to waive the 30-day operative delay. The Commission believes that such waiver is consistent with the protection of investors and the public interest because such waiver should benefit investors by creating, without undue delay, additional competition in the market for the Shares. The Commission has previously approved the listing and trading of the Shares on another exchange<sup>23</sup> and does not believe that the proposed rule change presents any novel or significant regulatory issues. Therefore, the Commission designates the proposed rule change as operative upon filing.<sup>24</sup>

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 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2008-092 on the subject line.

### Paper Comments

- Send paper comments in triplicate to the Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NASDAQ-2008-092. 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

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>22</sup> 17 CFR 240.19b-4(f)(6). The Commission notes that Nasdaq has satisfied the five day pre-filing notice requirement.

<sup>23</sup> See *supra* note 5.

<sup>24</sup> For purposes only of waiving the operative date of this proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. 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-NASDAQ-2008-092 and should be submitted on or before January 6, 2009.

Florence E. Harmon,  
Acting Secretary.

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BILLING CODE 8011-01-P

## SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11471 and #11580]

### New Hampshire Disaster Number NH-00005

AGENCY: Small Business Administration.  
ACTION: Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Hampshire (FEMA-1799-DR), dated 10/03/2008.

*Incident:* Severe Storms and Flooding.  
*Incident Period:* 09/06/2008 through 09/07/2008.

**EFFECTIVE DATE:** 12/05/2008.

*Physical Loan Application Deadline Date:* 12/02/2008.

*Economic Injury (EIDL) Loan Application Deadline Date:* 07/03/2009.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> See *supra* note 5.

<sup>20</sup> 17 CFR 240.12f-5.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of New Hampshire, dated 10/03/2008, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:* Merrimack.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. E8-29719 Filed 12-15-08; 8:45 am]

**BILLING CODE 8025-01-P**

## TENNESSEE VALLEY AUTHORITY

### Notice of Consideration of Energy Efficiency and Smart Grid Standards

**SUMMARY:** The Tennessee Valley Authority (TVA) is considering adopting for itself and the distributors of TVA power certain energy efficiency and Smart Grid standards. The standards being considered are the Integrated Resource Planning, Rate Design Modifications to Promote Energy Efficiency Investments, Consideration of Smart Grid Investments, and Smart Grid Information standards listed in section 111(d) of the Public Utility Regulatory Act of 1978 (Pub. L. 95-617) as amended by the Energy Independence and Security Act of 2007 (Pub. L. 110-140). The standards will be considered on the basis of their effect on conservation of energy, efficient use of facilities and resources, equity among electric consumers, and the objectives of the Tennessee Valley Authority Act. Comments are requested from the public on whether TVA should adopt these standards or any variations on them.

**DATES:** All comments on these standards must be received by April 30, 2009. Written comments may be mailed to: Veenita Bisaria, Tennessee Valley Authority, 400 W. Summit Hill Drive, WT3D-K, Knoxville, TN 37902, (865) 632-3939. Comments may also be submitted via the Web, at <http://www.tva.com/purpa>.

**FOR FURTHER INFORMATION CONTACT:** Veenita Bisaria, Tennessee Valley Authority (contact information above).

**SUPPLEMENTARY INFORMATION:** Of the standards being considered, the Public Utility Regulatory Act of 1978 (Pub. L. 95-617) as amended by the Energy Independence and Security Act of 2007 (Pub. L. 110-140) requires that TVA consider these standards. Accordingly,

data, views, and comments are requested from the public on the Integrated Resource Planning, Rate Design Modifications to Promote Energy Efficiency Investments, Consideration of Smart Grid Investments, and Smart Grid Information standards. Comments on variations in any of the standards, as well as views for or against their adoption are welcome. These standards are being presented in order to initiate consideration and obtain the public's views on the need and desirability of such standards. Determinations on the appropriateness of the standards will be made by the TVA Board of Directors. The TVA Board will also determine, what, if any, standards included in this notice will be implemented by TVA for itself and the distributors of TVA power.

*Standards:* The standards about which a determination will be made are:

(1) *Integrated Resource Planning.* Each electric utility shall (A) integrate energy efficiency resources into utility, State, and regional plans; and (B) adopt policies establishing cost-effective energy efficiency as a priority resource.

(2) *Rate design modifications to promote energy efficiency investments.* (A) The rates allowed to be charged by any electric utility shall (i) align utility incentives with the delivery of cost-effective energy efficiency; and (ii) promote energy efficiency investments.

(3) *Consideration of smart grid investments.* Each State shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including (i) Total costs; (ii) cost-effectiveness; (iii) improved reliability; (iv) security; (v) system performance; and (vi) societal benefit.

(4) *Smart Grid information.* (A) All electricity purchasers shall be provided direct access, in written or electronic machine-readable form as appropriate, to information from their electricity provider as provided in subparagraph (B).

(B) Information. Information provided under this section, to the extent practicable, shall include:

(i) Prices. Purchasers and other interested persons shall be provided with information on (I) time-based electricity prices in the wholesale electricity market; and (II) time-based electricity retail prices or rates that are available to the purchasers.

(ii) Usage. Purchasers shall be provided with the number of electricity units, expressed in kwh, purchased by them.

(iii) Intervals and projections. Updates of information on prices and usage shall be offered on not less than a daily basis, shall include hourly price and use information, where available, and shall include a day-ahead projection of such price information to the extent available.

(iv) Sources. Purchasers and other interested persons shall be provided annually with written information on the sources of the power provided by the utility, to the extent it can be determined, by type of generation, including greenhouse gas emissions associated with each type of generation, for intervals during which such information is available on a cost-effective basis.

(C) Access. Purchasers shall be able to access their own information at any time through the Internet and on other means of communication elected by that utility for Smart Grid applications. Other interested persons shall be able to access information not specific to any purchaser through the Internet. Information specific to any purchaser shall be provided solely to that purchaser.

*Procedures:* Written data, views, and comments on the standards are requested from the public. All material relating to the standards must be received by 5 p.m. EST on April 30, 2009. All materials received by TVA before this designated time will be considered by TVA. Written statements of TVA staff concerning the standards will be made part of the official record at least 30 days before the date the record closes, at which time they will be made available to the public on request. In order to assist interested consumers in preparing written data, views, and comments for the record, TVA will operate a Web site (<http://www.tva.com/purpa>) on which interested parties can be informed about the standards set out in this notice and on which interested parties can submit comments and materials on the standards. The official record will consist of all comments and materials submitted electronically and all written materials submitted within the time set forth above. A summary of the record will be prepared by TVA staff and will be transmitted to the TVA Board of Directors along with the complete record. The record will be used by the Board in making the determinations required by section 111(d) of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617) as amended by the Energy Independence and Security Act of 2007 (Pub. L. 110-140) and in fulfilling its obligation under the Tennessee Valley Authority Act. Individual copies of the record will