law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After September 20, 2004, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities (70–10234)

Northeast Utilities (''NU''), a Massachusetts business trust and registered holding company, 107 Selden Street, Berlin, Connecticut 06037–5457, has filed with this Commission a declaration under section 12(b) of the Act and rules 45 and 54.

NU's wholly-owned public utility subsidiaries are The Connecticut Light and Power Company, Public Service Company of New Hampshire, and Western Massachusetts Electric Company. Together, these companies furnish retail and wholesale electric service in Connecticut, New Hampshire, western Massachusetts and throughout the Northeast United States. NU is also the parent of a number of other companies, among them the Northeast Utilities Service Company, a service company subsidiary of NU (''NUSCO'') and The Rocky River Realty Company, a non-utility subsidiary of NU (''RRR'').

NUSCO, a Connecticut corporation, provides centralized support services to NU system companies, including accounting, administrative, information technology, engineering, financial, legal, operational, planning and purchasing services. RRR, a Connecticut corporation, engages in real estate transactions on behalf of NU system companies, including entering into leases for office space utilized by various system companies.

As part of normal business activities, from time to time, NUSCO and RRR may ask NU to provide financial or performance assurances of the obligations of NUSCO and of RRR to third parties. These agreements include contract guarantees, surety bonds and rating-contingent collateralization provisions. In addition, RRR may ask NU to provide payment and performance guarantees in connection with the real-estate contracting activities of RRR, including construction, acquisition and leasing of properties and facilities utilized by certain NU system companies.

NU requests authority, for the period ending June 30, 2007 (''Authorization Period''), to guarantee, indemnify and otherwise provide credit support (each, a ''Guarantee'') to NUSCO and to RRR, as may be appropriate or necessary in the ordinary course of the NUSCO and the RRR businesses, in an aggregate amount not exceed $100 million outstanding at any one time.

The Guarantees may take the form of NU agreeing to guarantee, undertake reimbursement obligations or assume liabilities or other obligations with respect to or act as surety on, real estate and equipment leases, letters of credit, evidences of indebtedness, equity commitments and performance and other obligations undertaken by NUSCO or by RRR.

NU specifically states that the authority requested is separate from the guaranty authority granted by the Commission in its order dated June 30, 2004 (Holding Co. Act Release No. 27868), supplemented July 2, 2004 (Holding Co. Act Release No. 27868A) (together, the ''NUEI Order''). The NUEI Order authorized, among other things, NU and NU Enterprises, a wholly owned non-utility subsidiary of NU, to guarantee, indemnify and otherwise provide credit support of up to $750 million of the debt or obligations of NU's non-utility subsidiaries or affiliates (not including NUSCO or RRR) through June 30, 2007.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–1960 Filed 8–27–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50230; File No. SR–PCX–2004–67]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendments Nos. 1 and 2 Thereto Amending PCXE Rule 7.55 Relating to the Processing of Incoming ITS Commitments

August 23, 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 14, 2004, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), through its wholly owned subsidiary PCX Equities, Inc. (''PCXE''), 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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(i) of the Act,[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. On August 12, 2004, the PCX filed Amendment No. 1 to the proposed rule change.[5] On August 13, 2004, the PCX filed Amendment No. 2 to the proposed rule change.[6] The Commission is publishing this notice, as amended, 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 is proposing to amend PCXE Rule 7.55 (''Definitions''), which governs the Archipelago Exchange (''ArcaEx''), an equities trading facility of PCXE, to clarify current ArcaEx practices with respect to the processing of incoming commitments over the Intermarket Trading system (''ITS''). The text of the proposed rule change appears below. New text is in italics.

* * * * *

Rule 7

Equities Trading

Section 5—Intermarket Trading System Plan

Rule 7.55(a)—No change.

(b) Provisions of the Plan. The Corporation has agreed to comply to the best of its ability, and absent reasonable justification or excuse, to enforce compliance by its ETP Holders with the provision of the Plan. In this connection, the following shall apply:

(1)–(3)—No change.

(4) The ETP Holder who made the bid or offer which is sought by a commitment to trade received through ITS shall accept such commitment to trade, via the facilities of the Corporation, up to the amount of the bid or offer if the bid or offer is still available when the commitment to trade is received by such ETP Holder, via the facilities of the Corporation, unless acceptance is precluded by the Rules of the Corporation. In the event that the bid or offer which is sought by a commitment to trade is no longer available through the facilities of the Corporation when the commitment is received, but a new bid or offer is available through the facilities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 204.19b–4(f)(1).

[5] *See* letter from Mai S. Shiver, Director, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated August 11, 2004. Amendment No. 1 replaced the proposed rule change in its entirety.

[6] *See* letter from Mai S. Shiver, Director, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division, Commission, dated August 12, 2004. Amendment No. 2 corrects the pagination and attaches Exhibit A, which was inadvertently omitted from the proposed rule change.

of the Corporation which would enable the commitment to trade to be executed at a price which is more favorable than the price specified in such commitment, then the ETP Holder who made the bid or offer shall accept, via the facilities of the Corporation, such commitment at the price, and up to the amount of, the new bid or offer, unless acceptance is precluded by the Rules of the Corporation. *An incoming commitment received during the time a trade-through complaint against the away market is outstanding is presumed to relate to the outstanding ITS complaint. Such incoming commitment will be matched with the bid or offer traded through at the price of the bid or offer residing in the ArcaEx book. The presumption in this rule shall have no bearing on the resolution of the ITS complaint.*

* * * * *

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 add language to PCXE Rule 7.55 to clarify current ArcaEx practices with respect to the processing of incoming ITS commitments sent by an away market during the time a trade-through complaint against the away market is outstanding. The ITS Operating Committee recently proposed to adopt an ITS Resolution Indicator, or ''.R'' modifier, that ITS participants would be required to include on all commitments to trade sent in resolution of an ITS administrative message or complaint from another participant. Currently, there is no such modifier available. The PCX states that the proposed .R modifier has been under discussion amongst members of the ITS Operating Committee for some time and the Exchange is hopeful that it will be approved. Until such time, the Exchange believes that the clarification in this proposed rule change should provide greater certainty with respect to ITS processing and ultimately lead to a more efficient marketplace.

PXCE Rule 7.55 governs how incoming commitments via ITS are handled by ArcaEx. The PCX states that on the current ArcaEx listed platform, incoming ITS commitments from an away market are executed at the ArcaEx best bid or offer (''BBO'') unless an ArcaEx order has been traded-through by the away market. According to the PCX, if an ArcaEx order is traded-through and a complaint is generated by the Exchange, an incoming ITS commitment received by ArcaEx is matched, where appropriate, with the offended ArcaEx order at the order price (and not the BBO should the order price be different from the BBO). The Exchange believes that the proposed rule change is designed to more clearly describe the ArcaEx processing ''presumption'' that all incoming ITS commitments received from an away market during the time a trade-through complaint against the away market is outstanding relate to the outstanding trade-through complaint. The proposed amendment to the rule also specifies that this presumption shall have no bearing on the resolution of the ITS trade-through complaint.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[7] of the Act, in general, and further the objectives of Section 6(b)(5)[8] in particular, because it is designed 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 mechanisms of a free and open market, and to protect investors and the public interest.

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

The Exchange 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 with respect to the proposed rule change.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(50.

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)(i) of the Act,[9] and Rule 19b–4(f)(1) thereunder,[10] because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing PCX rule. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the proposed 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.[11]

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 comments from (*http:www.sec.gov/rules/sro.shtml*);
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–PCX–2004–67 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–PCX–2004–67. 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

[9] 15 U.S.C. 78s(b)(3)(A)(i).

[10] 17 CFR 240.19b–4(f)(1).

[11] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that period to commence on August 13, 2004, the date the PCX submitted Amendment No. 2. *See* 15 U.S.C. 78s(b)(3)(C).

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 Room. Copies of the filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information form submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2004–67 and should be submitted on or before September 20, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–19662 Filed 8–27–04; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50229; File No. SR–Phlx–2004–42]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Its Specialist Unit Fixed Monthly Fee

August 23, 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 June 30, 2004, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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 Phlx. 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

Phlx proposes to amend its Specialist Unit Fixed Monthly Fee (''fixed monthly fee'') to address situations where an equity option or index option is relinquished by a specialist unit and subsequently reallocated to a new specialist unit.

A. Background[3]

The fixed monthly fee affords specialist units[4] the opportunity to elect to pay a fixed monthly fee in lieu of paying fees currently in effect for equity option and index option transaction charges and for the equity option specialist deficit (shortfall) fee (collectively ''variable fees'').[5] The Exchange rules provide two methods for calculating the fixed monthly fee.[6] Pursuant to the first methodology implemented in 2003, specialist units that traded an equity option or index option on the Phlx trading floor in their capacity as a specialist unit with Phlx equity option or index option transactions in at least one equity option or index option for at least one year from September 1, 2002, and that elected to pay a fixed monthly fee, use May and June 2003 volume as the basis to calculate the fixed monthly fee. In 2004, the Exchange extended the application of the fixed monthly fee calculation from February 29, 2004 to August 31, 2004.[7]

Subsequently, in 2004, the Exchange implemented a fixed monthly fee for those specialist units who were not enrolled in the specialist unit fixed monthly fee program implemented in 2003.[8] Pursuant to the second methodology, specialist units that elect the fixed monthly fee who have been trading an equity option or index option on the Phlx trading floor in their capacity as a specialist unit with Phlx equity option or index option transactions in at least one equity option or index option for at least nine months as of March 1, 2004, use October, November and December 2003 volume as the basis for calculating their fixed monthly fee. This fixed monthly fee is also in effect through August 31, 2004. Thus, there are two different time periods under which the fixed monthly fee may be calculated.[9]

The fixed monthly fee for both methods of calculation is currently capped at $310,000 per specialist unit per month for transactions settling on May 1, 2004 through August 31, 2004.[10]

B. Proposed Modifications to the Fixed Monthly Fee

Periodically, an options specialist unit will relinquish an option for various business reasons, and in many cases the relinquished option is reallocated to another options specialist unit.[11] For example, Options Specialist A, who is operating under the fixed monthly fee program, relinquishes an option that is subsequently allocated to Options Specialist B, also subject to the fixed monthly fee. Using the current fixed monthly fee methodology, Options Specialist A cannot reduce its fixed monthly fee by the amount of the relinquished option. In addition, using the current fixed monthly fee methodology, Options Specialist B will have its fee increased according to the applicable fixed monthly fee calculation under which it is operating, as opposed to applying the fixed monthly fee calculation under which Options Specialist A is operating.

To address this limited situation, the fixed monthly fee for an options specialist unit that has elected the fixed monthly fee and has relinquished an equity option or index option, will be reduced, pro-rata for the month, by the amount equal to the amount used to determine the fixed monthly fee with respect to the relinquished option (*e.g.,* a specialist that relinquishes Option A, which was factored into the fixed monthly fee using the May and June 2003 volume, will have its fixed monthly fee reduced using the same algorithm), provided the option is subsequently allocated within 30 days[12] to another specialist unit who has

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Clarifying changes in this section were made pursuant to telephone conversations on July 29, 2004, between Cynthia K. Hoekstra, Counsel, Phlx, and Steve Kuan, Attorney, Division of Market Regulation, Commission.

[4] The Exchange uses the terms ''specialist'' and ''specialist unit'' interchangeably herein.

[5] The fixed monthly fee does not affect additional charges, such as non-transactional and membership-related charges listed on Appendix A of the Exchange's fee schedule. In addition, a $0.10 charge per contract side for specialist unit transactions in the QQQ equity options (''QQQ license fee'') is imposed, if applicable, if the specialist unit elects to pay the fixed monthly fee. This fee is in addition to the fixed monthly fee. The QQQ license fee is in effect through August 31, 2004.

[6] *See* Securities Exchange Act Release Nos. 48459 (September 8, 2003), 68 FR 54034 (September 15, 2003) (SR–Phlx–2003–61); 49467 (March 24, 2004), 69 FR 17017 (March 31, 2004) (SR–Phlx–2004–17); and 49770 (May 25, 2004), 69 FR 31150 (June 2, 2004) (SR–Phlx–2004–31).

[7] *See* Securities Exchange Act Release No. 49467 (March 24, 2004), 69 FR 17017 (March 31, 2004) (SR–Phlx–2004–17).

[8] *See id.*

[9] A specialist that elected the first methodology may not elect the second methodology. A specialist that did not elect the first methodology may only elect the second methodology.

[10] *See* Securities Exchange Act Release No. 49693 (May 12, 2004), 69 FR 28974 (May 19, 2004) (SR–Phlx–2004–30).

[11] Phlx represents that the procedure to reallocate a relinquished option is set forth in Phlx Rule 505 and Phlx Rule 506. Telephone conversation among Cynthia K. Hoekstra, Counsel, Phlx, and Marc McKayle and Steve Kuan, Division of Market Regulation, Commission (July 22, 2004).

[12] Phlx believes that the 30-day period is a reasonable time period. *See id.*