

plant ("Waterford Facility") and an exempt wholesale generator, as defined under section 32 of the Act ("EWG"), from Public Service Enterprise Group, Incorporated ("PSE"), an electric and gas utility holding company that claims exemption from registration under section 3(a)(1) of the Act by rule 2, and PSEG Power LLC, a wholly owned subsidiary of PSE (together, "PSEG").

I. Background

CSP is engaged in the generation, transmission and distribution of electric power to approximately 707,000 retail customers in Ohio and in supplying and marketing electric power at wholesale to other electric utilities, municipalities and other market participants.¹ Applicants state that the Waterford Facility has a nominal generating capacity of 821 megawatts and is located in southeastern Ohio and that its sellers, PSE PSEG Power LLC, are a New Jersey corporation and a wholly owned Delaware subsidiary, respectively.

II. The Proposed Transaction

CSP proposes to purchase the Waterford Facility from PSEG, having entered into a purchase and sale agreement dated as of May 24, 2005 ("Purchase Agreement"), for a purchase price of \$220,000,000 ("Purchase Price").

Applicants anticipate a closing date for the proposed transaction in the third quarter of 2005. Applicants state they propose that PSEG will sell and transfer to CSP, and CSP will purchase from PSEG, substantially all of the assets and related liabilities associated with the Waterford Facility and that PSEG will deliver the assets and related liabilities, free and clear of any mortgage, lien or other security.

Applicants also state that, under an interconnection and operation agreement between PSEG and American Electric Power Service Corporation (the service company affiliate of CSP) dated as of October 20, 2000 ("Interconnection Agreement"), the Waterford Facility is interconnected with CSP's transmission grid owned and its public utility affiliates. Applicants state that, as part of the proposed transaction, all of PSEG's rights and obligations under the Interconnection Agreement will be assigned to CSP. Applicants further

state that, upon completion of the Waterford Facility acquisition, the facility will be integrated with AEP's electric public-utility system and the Waterford Facility will no longer be an EWG.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52166; File No. SR-BSE-2005-34]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a Pilot Program Relating to Boston Options Exchange Trading Rules Regarding Market Opening Procedures

July 29, 2005.

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 28, 2005, the Boston Stock Exchange, Inc. ("BSE" 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. Pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ the Exchange has designated this proposal as "non-controversial," which renders the proposed rule change effective immediately upon filing with the Commission.⁵ 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 extend the pilot program ("Pilot Program") for a provision of its Boston Options Exchange ("BOX") trading rules regarding its market opening procedures for one year through August 6, 2006.

The text of the proposed rule change is available on the Exchange's Web site (<http://www.bostonstock.com>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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 purpose of the proposed rule change is to extend the Pilot Program for a section of the Rules of the Boston Options Exchange (the "BOX Rules") relating to opening the market until August 6, 2006. Chapter V, *Doing Business on BOX*, Section 9, *Opening the Market*, establishes guidelines regarding market opening procedures ("Market Opening Rules"). On February 4, 2004, the Commission approved the guidelines, as set forth in the BOX Rules, on a pilot basis through August 6, 2004⁶ and extended the Pilot Program for another year on August 6, 2004.⁷ The Exchange now seeks to extend the pilot for another year, until August 6, 2006.

According to the BOX Market Opening Rules, for a period of at least one hour prior to the start of trading each day, the BOX Trading Host is in Pre-Opening Phase. During the Pre-Opening Phase, Options Participants are able to enter, modify and cancel orders and quotes, as well as Limit Orders from previous trading sessions which are still valid (e.g. "Good Till Cancelled" orders) that are automatically brought to the new Pre-Opening Phase and are available for modification and cancellation. A Theoretical Opening Price ("TOP"), which is the price which

¹ Applicants state that CSP was organized in Ohio in 1937, with its earliest direct predecessor company having been organized in 1883. CSP's service area is comprised of two areas in Ohio. One area includes the City of Columbus and the other is a predominantly rural area in south central Ohio. Applicants also state that, in addition to its AEP system interconnections, CSP is interconnected with several unaffiliated utility companies and that it joined PJM on October 1, 2004.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The BSE has asked the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay. See Rule 19b-4(f)(6)(iii), 17 CFR 240.19b-4(f)(6)(iii). See also discussion *infra* Section III.

⁶ See Securities Exchange Act Release No. 49192 (February 4, 2004), 69 FR 7051 (February 12, 2004) (SR-BSE-2004-05).

⁷ See Securities Exchange Act Release No. 50163 (August 6, 2004) 69 FR 50230 (August 13, 2004) (SR-BSE-2004-28).

would be the opening price if the Opening Match were to occur at that moment, is calculated and broadcast continuously to all BOX Options Participants during the Pre-Opening Phase; however, no orders are matched, nor trades executed until the primary market opens for each underlying security. At that point, an Opening Match is conducted, and any orders or quotes remaining on the BOX Book after the Opening Match are accessible for modification or cancellation during regular trading.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁸ in general, and Section 6(b)(5),⁹ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and is not designed to permit unfair discrimination between customers, brokers, or dealers, or to regulate by virtue of any authority matters not related to the administration of the Exchange.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

The Exchange has asked the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay to allow the Pilot Program to continue to operate without interruption after it would have otherwise expired on August 6, 2005. The Commission waives the five-day pre-filing notice requirement. In addition, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to continue to provide standardized market open procedures for BOX that the Exchange can surveil, enforce, and continue to evaluate without interruption through August 6, 2006.¹⁰ For this reason, the Commission designates that the proposal become operative immediately.

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. Please include File

Number SR-BSE-2005-34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File No. SR-BSE-2005-34. 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 Room. Copies of the filing also will be available for inspection and copying at the principal office 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-BSE-2005-34 and should be submitted on or before August 25, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

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⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ 17 CFR 200.30-3(a)(12).