

discussion were considered in the determination regarding the petition.

The NRC sent a copy of the proposed Director's Decision to the petitioner and the licensee for comments on June 18, 2003. The petitioner and the licensee responded with comments on July 11, 2003. The comments and the NRC staff's response to them are included in the Director's Decision.

The NMSS Office Director has determined that the request for NRC to issue an Order to Westinghouse to provide certain radiological survey data to NRC which NRC has requested, is moot and will no longer be addressed, and that the request for NRC to issue an Order to Westinghouse to accept under SNM-770 certain residual byproduct materials now held under Viacom license TR-2 and located at the WTR facility is denied. The NMSS Office Director also has denied the request for NRC to issue an Order to Westinghouse to abate a violation of 10 CFR 50.5, and has granted the request for NRC to interpret the Decommissioning Plan for the WTR as part of the response to Viacom's separate request dated October 29, 2002. The reasons for the decisions are explained in the Director's Decision pursuant to 10 CFR 2.206 [DD-03-02], the complete text of which is available in ADAMS for inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS public access component on the NRC's Web site, <http://www.nrc.gov>, under the "Public Involvement" icon.

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the Director's Decision within that time.

Dated at Rockville, Maryland, this 26th day of August 2003.

For the Nuclear Regulatory Commission.

**Margaret V. Federline,**

*Deputy Director, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 03-22397 Filed 9-2-03; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Issuer Delisting; Notice of Application of Intervoice, Inc. To Withdraw Its Common Stock, No Par Value, and Preferred Stock Purchase Rights From Listing and Registration on the Chicago Stock Exchange, Inc. File No. 1-15045

August 27, 2003.

Intervoice, Inc., a Texas corporation ("Issuer"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 12d2-2(d) thereunder,<sup>2</sup> to withdraw its Common Stock, no par value and Preferred Stock Purchase Rights, ("Security"), from listing and registration on the Chicago Stock Exchange, Inc. ("CHX" or "Exchange").

The Board of Directors ("Board") of the Issuer approved a resolution on June 24, 2003 to withdraw its Security from listing on the Exchange. In making its decision to delist its Security from the CHX the Issuer notes that the Security has not traded on the CHX for a long period of time because no person has made a market in the Security. In addition, the Security is actively traded on the Nasdaq National Market System ("NMS") and the Company fully intends to maintain the listing and registration on the NMS.

The Issuer stated in its application that it has complied with the rules of the CHX that govern the removal of securities from listing and registration on the Exchange. The Issuer's application relates solely to the withdrawal of the Security from listing and registration on the CHX and from registration under Section 12(b) of the Act<sup>3</sup> and shall not affect its obligation to be registered under Section 12(g) of the Act.<sup>4</sup>

Any interested person may, on or before September 18, 2003, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609, facts bearing upon whether the application has been made in accordance with the rules of the CHX and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date

<sup>1</sup> 15 U.S.C. 78l(d).

<sup>2</sup> 17 CFR 240.12d2-2(d).

<sup>3</sup> 15 U.S.C. 781(b).

<sup>4</sup> 15 U.S.C. 781(g).

mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 03-22369 Filed 9-2-03; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48412; File No. SR-NASD-2003-112]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Locked Markets in the Nasdaq InterMarket

August 26, 2003.

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 18, 2003 the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq"), filed a proposed rule change with the Securities and Exchange Commission ("Commission"). On August 5, 2003, the NASD filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change is described in Items I, II, and III below, which Nasdaq has prepared. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

Nasdaq is filing a proposed rule change to amend NASD Rule 5263, which addresses locked and crossed markets in exchange-listed securities, to conform Nasdaq's rule more closely with the locked markets rule contained in the ITS Plan. The text of the proposed rule change is below. Proposed new language is *italicized*; proposed deletions are in [brackets].

\* \* \* \* \*

NASD Rule 5263. Locked or Crossed Markets

(a) No Change.

<sup>5</sup> 17 CFR 200.30-3(a)(1).

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

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

<sup>3</sup> See letter from Mary M. Dunbar, Vice President and Deputy General Counsel, Nasdaq, to Kathy England, Assistant Director, Division of Market Regulation, Commission dated August 4, 2003.

(b) No Change.

(c)(1) [(A)] Unless excused by operation of paragraphs [(c)(1)(B)] (c)(2) or (d) below an ITS/CAES Market Maker that makes a bid or offer and in so doing creates a locked or crossed market with an ITS Participant Exchange or another ITS/CAES Market Maker and that receives a complaint through ITS/CAES or CAES from the party whose bid (offer) was locked or crossed (the "aggrieved party"), the ITS/CAES Market Maker responsible for the locking offer (bid) shall, as specified in the complaint, either promptly "ship" (i.e., satisfy through ITS/CAES or CAES the locked bid (offer) up to the size of his locking offer (bid) or "unlock" (i.e., adjust his locking offer (bid) so as not to cause a locked market). If the complaint specifies "unlock," it may nevertheless ship instead.

[(B)2] If there is an error in a locking bid or offer that relieves the locking ITS/CAES Market Maker from its obligations under paragraph (c)(2) of Rule 11Ac1-1 and if the ITS/CAES Market Maker receives a "ship" complaint through ITS/CAES or CAES from the aggrieved party, the locking ITS/CAES Market Maker shall promptly cause the quotation to be corrected and, except as provided in paragraph (d) below, it shall notify the aggrieved party through ITS/CAES or CAES of the error within two minutes of receipt of the complaint. If the locking ITS/CAES Market Maker fails to so notify the aggrieved party, he shall promptly ship.

[(2) An ITS/CAES Market Maker that makes a bid or offer and in so doing creates a locked or crossed market with another ITS/CAES Market Maker shall promptly send to such other ITS/CAES Market Maker an order seeking either the bid or offer which was locked or crossed, unless excused by operation of paragraph (d) below. Such order shall be for either the number of shares he has bid for (offered) or the number of shares offered (bid for) by the ITS/CAES Market Maker, whichever is less.]

(d) No Change.

\* \* \* \* \*

## 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.

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

#### 1. Purpose

The Nasdaq InterMarket is a quotation, communication, and execution system that allows NASD members to trade stocks listed on the New York Stock Exchange ("NYSE") and the American Stock Exchange ("Amex").<sup>4</sup> The InterMarket competes with regional exchanges like the Chicago Stock Exchange ("CHX") and the Cincinnati Stock Exchange ("CSE") for retail order flow in stocks listed on the NYSE and the Amex. InterMarket comprises CAES, a system that facilitates the execution of trades in listed securities between NASD members that participate in InterMarket, and ITS, a system that permits trades between NASD members and specialists on the floors of national securities exchanges that trade listed securities.

The national market system plan governing the Intermarket Trading System ("ITS Plan") requires national securities exchanges and the NASD to adopt a model rule governing locked and crossed markets in ITS-eligible securities. The current wording of the NASD rule differs slightly from that required by the ITS Plan, in that it treats locks and crosses that occur completely within the Nasdaq InterMarket differently than it treats locks and crosses that occur between InterMarket participants and ITS participant exchanges. Nasdaq believes that this difference increases the regulatory and compliance burdens of NASD members that participate in CAES and in ITS, as well as increasing the regulatory burdens on the NASD itself, without any offsetting benefits to the InterMarket or its members.

NASD Rule 5263 currently requires ITS/CAES Market Makers that create locked or crossed markets with another ITS Participant to comply with the precisely defined procedure expressed in the ITS Plan, which requires that a locking participant respond only after a locked market complaint has been properly registered. In contrast, the rule requires that ITS/CAES Market Makers that lock other ITS/CAES Market Makers within CAES promptly send the locked or crossed Market Maker an order seeking the number of shares of

the locked/crossed bid or offer without waiting for the locked or crossed Market Maker to complain. Nasdaq believes that the more stringent requirement within the InterMarket can cause CAES Market Makers to prematurely send an order to trade without having the input or an understanding of the locked party's intentions to trade. Nasdaq also believes that it forces ITS/CAES Market Makers to be familiar with and engage in two different procedures in response to the same behavior, creating unnecessary confusion and cost.

To eliminate this disparity vis-à-vis other markets, Nasdaq proposes to simply mirror the language of the ITS Plan and to remove the more restrictive language with respect to locks or crosses that occur between ITS/CAES Market Makers. Nasdaq believes that although locking and crossing behavior can provide valuable price discovery information to market participants, regulatory incentives help minimize the extent to which such locks and crosses interfere with the smooth operation of the InterMarket and with ITS/CAES Market Makers' internal systems.

According to Nasdaq, applying the same locked and crossed rule to both ITS and CAES will also improve Nasdaq's ability to effectively enforce Section 8(d) of the ITS Plan. In a June 13, 2003 letter from Lori Richards, Director of the Office of Compliance Inspections and Examinations to Robert Glauber, Chairman and Chief Executive Officer of the NASD, Ms. Richards recommended that the NASD improve its regulatory program for detecting and disciplining InterMarket participants that violate the lock/cross provisions of the ITS Plan and NASD Rule 5263. Nasdaq is working diligently to respond to that recommendation. This proposal is one of several steps the NASD and Nasdaq will take in response to Ms. Richards' recommendation.

#### 2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A of the Act,<sup>5</sup> in general and with Section 15A(b)(6) of the Act,<sup>6</sup> in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster competition and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and

<sup>4</sup> Nasdaq's InterMarket formerly was referred to as Nasdaq's Third Market. See Securities Exchange Act Release No. 42907 (June 7, 2000); 65 FR 37445 (June 14, 2000) (SR-NASD-00-32).

<sup>5</sup> 15 U.S.C. 78o-3.

<sup>6</sup> 15 U.S.C. 78o-3(6).

open market and a national market system, and, in general, to protect investors and, in general, the public interest.

*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.

*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**

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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the File No. SR-NASD-2003-112 and should be submitted by September 24, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 03-22410 Filed 9-2-03; 8:45 am]

**BILLING CODE 8010-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #P012]**

**State of Florida; Amendment #1**

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective August 21, 2003, the above numbered declaration is hereby amended to include Pasco County in the State of Florida as a disaster area due to damages caused by severe storms and flooding occurring on June 13, 2003 and continuing.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is September 29, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59008)

Dated: August 27, 2003.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 03-22423 Filed 9-2-03; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Economic Injury Disaster #9W74]**

**State of Montana**

Flathead, Glacier, Lake, Lewis & Clark, Lincoln, Sanders and Teton Counties and the contiguous Counties of Broadwater, Cascade, Chouteau, Jefferson, Meagher, Mineral, Missoula, Pondera, Powell and Toole Counties in the State of Montana; and Bonner, Boundary and Shoshone Counties in the State of Idaho constitute an economic injury disaster loan area as a result of forest fires that began on July 23, 2003 and continue to burn. The forest fires caused the closures of the entrances to Glacier National Park and have caused several businesses to suffer substantial economic losses. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business

on May 26, 2004 at the address listed below or other locally announced locations:

Small Business Administration, Disaster Area 3 Office, 14925 Kingsport Road, FT. Worth, TX 76155-2243.

The interest rate for eligible small businesses and small agricultural cooperatives is 2.953 percent.

The number assigned for economic injury for this disaster is 9W7400 for the State of Montana and 9W7500 for the State of Idaho.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: August 26, 2003.

**Hector V. Barreto,**

*Administrator.*

[FR Doc. 03-22424 Filed 9-2-03; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #P014]**

**Commonwealth of Pennsylvania**

As a result of the President's major disaster declaration for Public Assistance on August 23, 2003 the U.S. Small Business Administration is activating its disaster loan program only for private non-profit organizations that provide essential services of a governmental nature. I find that Crawford, Forest, Mercer, McKean, Venango and Warren Counties in the Commonwealth of Pennsylvania constitute a disaster area due to damages caused by severe storms, tornadoes, and flooding occurring on July 21, 2003 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 22, 2003 at the address listed below or other locally announced locations:

Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Non-profit organizations without credit available elsewhere .....	2.953
Non-profit organizations with credit available elsewhere ...	5.500

The number assigned to this disaster for physical damage is P01411.

(Catalog of Federal Domestic Assistance Program Nos. 59008)

<sup>7</sup> 17 CFR 200.30-3(a)(12).