

implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The NRC staff has required use of the initial conservatism of the  $K_{Ia}$  curve since 1974 when the curve was codified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, additional knowledge has been gained about RPV materials which demonstrates that the lower bound on fracture toughness provided by the  $K_{Ia}$  curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. In addition, P-T curves based on the  $K_{Ic}$  curve will enhance overall plant safety by opening the P-T operating window with the greatest safety benefit in the region of low-temperature operations.

Since the reactor coolant system P-T operating window is defined by the P-T operating and test limit curves developed in accordance with ASME section XI, Appendix G, continued operation of Limerick Unit 2 with these P-T curves without the relief provided by ASME Code Case N-640 would unnecessarily require the licensee to maintain the RPV at a temperature exceeding 212 °F in a limited operating window during pressure tests. Consequently, steam vapor hazards would continue to be one of the safety concerns for personnel conducting inspections in primary containment. Implementation of the proposed P-T curves, as allowed by ASME Code Case N-640, continues to maintain an adequate margin of safety and would eliminate steam vapor hazards by allowing inspections in primary containment to be conducted at a lower coolant temperature. Thus, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the regulation will continue to be served.

Pursuant to 10 CFR 50.12(a), the Commission may, upon application by an interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. As stated in 10 CFR 50.12(a)(2)(ii), these special circumstances include situations in which "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; \* \* \*". The staff examined the licensee's rationale to support the exemption

request and determined that the use of the code case would meet the underlying purpose of 10 CFR Part 50, Appendix G; therefore, application of the assumed flaw types and the  $K_{Ia}$  equation in Appendix G to section XI of the ASME Code, as invoked by the rule, is not necessary to meet the underlying purpose of the regulation, and thus meets the special circumstance criterion of 10 CFR 50.12(a)(2)(ii) for granting the exemption request. Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of 10 CFR Part 50, Appendix G; Appendix G of the ASME Code; and Regulatory Guide 1.99, Revision 2; the staff concludes that application of the code case as described would provide an adequate margin of safety against brittle failure of the RPV. This is also consistent with the determination that the NRC staff has reached for other licensees under similar conditions based on the same considerations, including Quad Cities Nuclear Power Station, Units 1 and 2, exemption dated February 4, 2000. Therefore, the staff concludes that granting an exemption under the special circumstances provision of 10 CFR 50.12(a)(2)(ii) is appropriate, and that the methodology contained in Code Case N-640 would serve the underlying purpose of the rule for Limerick Unit 2.

#### 4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a): (1) The exemption is authorized by law, will not endanger life or property or common defense and security, and is otherwise in the public interest; and (2) special circumstances are present. Therefore, the Commission hereby grants Exelon Generation Company an exemption from the requirements of 10 CFR Part 50, Appendix G, for Limerick Unit 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 15913).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 21st day of March 2001.

For the Nuclear Regulatory Commission.

**John A. Zwolinski,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 01-7350 Filed 3-22-01; 8:45 am]

**BILLING CODE 7590-01-P**

## RAILROAD RETIREMENT BOARD

### Notice of Public Meeting; Sunshine Act

Notice was previously published at 66 FR 14944 on March 14, 2001, that the Railroad Retirement Board would hold a meeting on March 20, 2001, 10 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois 60611. This meeting has been rescheduled to March 27, 2001, at 10 a.m. The agenda remains the same.

The entire meeting will be closed to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312-751-4920.

Dated: March 20, 2001.

**Beatrice Ezerski,**

*Secretary to the Board.*

[FR Doc. 01-7344 Filed 3-21-01; 10:44 am]

**BILLING CODE 7905-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27359]

### Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

March 19, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 12, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or laws 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 April 12, 2001, the

application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### **Northeast Utilities, et al. (70-9839)**

Northeast Utilities ("NU"), a registered public utility holding company, Western Massachusetts Electric Company ("WEMCO"), an electric utility subsidiary of NU, both located at 174 Brush Hill Avenue, West Springfield, Massachusetts 01090 and Connecticut Light and Power Company ("CL&P"), an electric utility subsidiary of NU located at 107 Selden Street, Berlin, Connecticut 06037 (collectively, "Applicants") have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(c) and rules 42, 43, 44, 46(a) and 54.

Applicants request authorization, through December 31, 2004, for: (1) CL&P to pay dividends to and/or repurchase stock from NU out of capital or unearned surplus in an amount not to exceed \$100 million in using the proceeds from the sale of nuclear generating facilities ("Millstone"); (2) CL&P to pay dividends and/or repurchase stock in accordance with the provisions of CL&P's dividend covenant under its first mortgage indenture and deed of trust ("Mortgage Indenture")<sup>1</sup> dated May 1, 1921 to the Bankers Trust Company as trustee; and (3) WMECO to pay dividends to and/or repurchase stock from NU out of capital or unearned surplus in an amount not to exceed \$21 million using proceeds from the sale of nuclear generating facilities.

Applicants note that each of the states in which CL&P and WMECO (collectively, "Utilities") operate, Connecticut and Massachusetts, has enacted restructuring legislation ("Restructuring Legislation") that is intended to deregulate the electric utility industry and provide retail customers with a choice of electricity providers. The Restructuring Legislation strongly encourages the Utilities to, among other things, divest their nuclear and non-nuclear generating assets. The non-nuclear electric generating assets of CL&P and WMECO have been sold. The Utilities are in the process of selling Millstone, a nuclear generating asset. In addition to the proceeds raised from these sales of generating assets, CL&P and WMECO will also receive proceeds

from the issuance of rate reduction bonds ("RRBs") as part of the restructuring process. This application only deals with the use of proceeds from the sale of Millstone.

By order dated March 7, 2000 (HCAR No. 27147), the utility subsidiaries<sup>2</sup> sought and were granted authorization, among other things, to pay dividends to, and/or repurchase shares of their respective stock from NU out of capital or unearned surplus using the proceeds from the sale of non-nuclear generating assets and the issuance of RRBs, despite the lack of sufficient retained earnings. Applicants state that the sale of nuclear assets was not foreseen at the time of the previous filing as resulting in any substantial net cash to the Utilities. However, as a result of the proposed sale of Millstone, the Utilities will experience a significant influx of cash without a corresponding increase in retained earnings. To achieve the cost reduction goals of the Restructuring Legislation, Applicants propose to reduce their common equity capitalizations using a portion of such proceeds.

Applicants state the payment of dividends would not impair the financial integrity of CL&P or WMECO because, after the payment of these dividends, each Utility will still have adequate cash to operate its substantially smaller business. The senior debt ratings of CL&P and WMECO issued by Standard & Poor's were upgraded to "BBB+" on January 31, 2001 while the senior debt ratings of CL&P and WMECO issued by Moody's Investor Service Inc. were upgraded to "Baa1" on January 23, 2001.

Applicants note that as a result of the proposed transactions, the issuance of rate reduction bonds, and the accounting treatment of the debt relating to the rate reduction bonds, the equity-to-capitalization ratio of CL&P and of NU on a consolidated basis, is expected to fall below the Commission's 30% equity standard. Applicant represents that the companies will adhere to any state commission order requiring a higher equity ratio.<sup>3</sup>

<sup>2</sup> In addition to CL&P and WMECO, North Atlantic Energy Corporation and Public Service Company of New Hampshire also requested authorization in HCAR No. 27147.

<sup>3</sup> On March 16, 2001, the Connecticut Department of Public Utility Control issued a temporary order requiring CL&P to use the proceeds in a way to result in a common equity ratio for CL&P between 45% and 50% (not including the rate reduction bonds as debt).

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. 34-44085; File No. SR-CHX-01-05]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated, Relating to the Exchange's SuperMAX 2000 Price Improvement Program**

March 19, 2001.

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 March 16, 2001, the Chicago Stock Exchange, Incorporated ("CHX") 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 Exchange proposes to amend the CHX rules governing its voluntary price improvement program. Specifically, the Exchange proposes to amend Article XX, Rule 37(h) to reduce the determinative spread from \$.03 to \$.02, thereby increasing the opportunities for price improvement. The text of the proposed rule change is below. Additions are in *italic*. Deletions are in brackets.

#### **ARTICLE XX**

##### *Regular Trading Sessions*

\* \* \* \* \*

#### **Guaranteed Execution System and Midwest Automated Execution System**

##### **Rule 37**

\* \* \* \* \*

##### **(h) SuperMax 2000**

SuperMAX 2000 shall be a voluntary automatic execution program within the MAX System. SuperMAX 2000 shall be

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

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

<sup>1</sup> The Mortgage Indenture provides, among other things, that cash dividends may not be paid on the capital stock of CL&P, or distributions made, or capital stock purchased by CL&P, in an aggregate amount which exceeds CL&P's earned surplus after December 31, 1966, plus the earned surplus of CL&P accumulated prior to January 1, 1967 in amount not exceeding \$13,500,000, plus such additional amount as may be authorized or approved by the Commission under the Act.