

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

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27883]

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

August 9, 2004.

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 September 3, 2004, 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 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 3, 2004, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### Allegheny Energy, Inc. (70-10232)

Allegheny Energy, Inc. ("Allegheny"), 800 Cabin Hill Drive, Greensburg, PA 15601, a registered holding company under the Act has filed a declaration under sections 6(a) and 7 of the Act and rule 54 under the Act.

Allegheny is a diversified energy company, headquartered in Greensburg, Pennsylvania. Allegheny delivers electric energy to approximately 1.6 million customers in parts of Maryland, Ohio, Pennsylvania, Virginia, and West Virginia, and natural gas to

approximately 230,000 customers in West Virginia through the following wholly-owned regulated public utility companies: West Penn Power Company, The Potomac Edison Company, Monongahela Power Company, and Mountaineer Gas Company.

Allegheny requests authority from the Commission to issue shares of common stock, \$1.25 par value (the "Common Stock") in accordance with the terms of a Non-Employee Director Stock Plan (the "Plan"). Under the Plan, Allegheny proposes to issue up to 300,000 shares of Common Stock to its non-employee directors.<sup>1</sup> The Plan provides that, on March 31, 2004 and each March 31, June 30, September 30, and December 31 thereafter, Allegheny will issue a number of shares as determined by the Board, up to a maximum of 1,000 shares of Common Stock (the "Share Payment") to each person then serving as a non-employee director for services rendered during the quarter.<sup>2</sup> In addition, any director whose service terminates during the quarter due to death or disability will be issued the same Share Payment. For 2004, the Board has set the quarterly Share Payment to each non-employee director at 800 shares of Common Stock. The Share Payments are in addition to cash compensation that each non-employee director receives for Board service, but the Plan will supersede and replace Allegheny's prior policy of granting \$12,000 worth of Common Stock annually to non-employee directors as part of his or her director compensation. The Plan has been approved by Allegheny's Board of Directors (the "Board") and by Allegheny's stockholders at the company's 2004 annual meeting of stockholders. No Share Payments will be made under the Plan, until Allegheny receives the Commission's authorization under the Act, which is the only regulatory approval required prior to making the Share Payment. Upon receipt of the Commission's authorization to issue the Common Stock under the Plan, Share Payments that were due under the Plan since March 31, 2004 will be made within 10 business days thereafter.

The Plan is intended to aid Allegheny in attracting and retaining non-employee directors by encouraging and

<sup>1</sup> The number of shares of Common Stock authorized under the Plan may be adjusted to reflect a stock split, combination of shares, recapitalization, stock dividend, or other similar changes in Allegheny's capital stock after the adoption of the Plan.

<sup>2</sup> Each non-employee director will have the right to defer Share Payments due under the Plan in accordance with the Allegheny Energy, Inc. Revised Plan for Deferral of Compensation of Directors or any successor plan.

enabling them to acquire a financial interest in Allegheny, and to align the economic interest of the participants with those of Allegheny's stockholders. The Board has determined that the compensation to be made to non-employee directors under the Plan is appropriate in type and amount and competitive with compensation paid to directors by other companies of similar size and in similar businesses.

The Plan will be administered by the Board, which will have authority to interpret the Plan's provisions, and adopt, amend, and rescind rules and regulations for the Plan. The Board, without further stockholder approval, may amend the Plan to conform the Plan to securities or other laws, rules, regulations, or requirements applicable to the Plan, and may generally amend the Plan. The Board, however, cannot, without prior stockholder approval, amend the Plan to: (1) Change the number of shares of Common Stock available for issuance under the Plan; or (2) Increase from 1,000 the maximum number of shares that can be issued each quarter to each non-employee director. The Board may also suspend or discontinue the Plan, in whole or in part, but any suspension or discontinuance will not affect any shares of Common Stock issued under the Plan prior to that action. Under the Plan, 300,000 shares of Common Stock will be available for payment to the participants.

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. 34-50163; File No. SR-BSE-2004-28]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Its Boston Options Exchange Trading Rules Regarding Market Opening Procedures

August 6, 2004.

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 26, 2004, the Boston Stock Exchange, Inc.

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

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

("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 BSE. Pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> the BSE has designated this proposal as non-controversial, which renders the proposed rule change effective immediately upon filing. 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 BSE proposes to extend the pilot program for a provision of its Boston Options Exchange ("BOX") trading rules regarding its market opening procedures for one year through August 6, 2005. The text of the proposed rule change is available at the Office of the Secretary, the BSE, and at the Commission.

### **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 BSE 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 BSE 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 ("Pilot Program") for a section of the Rules of the BOX (the "BOX Rules") relating to opening the market until August 6, 2005. 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 these guidelines, as set forth in the BOX Rules, on a pilot basis through August 6, 2004.<sup>5</sup> The BSE now seeks to extend

the pilot for one year, until August 6, 2005.

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, and Limit Orders from previous trading sessions which are still valid (e.g., Good "Till Cancelled orders) 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 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 BSE believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>6</sup> in general, and Section 6(b)(5)<sup>7</sup> 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 BSE 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**

The BSE neither solicited nor received written comments with respect to the proposed rule change.

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

The BSE filed the proposed rule change pursuant to Section 19(b)(3)(A)<sup>8</sup> of the Act and Rule 19b-4(f)(6)<sup>9</sup> thereunder. Because the proposal: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change.

Under Rule 19b-4(f)(6)(iii) of the Act,<sup>10</sup> the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest and the BSE is required to give the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. The BSE has requested that the Commission waive the five-day pre-filing notice requirement and accelerate the 30-day operative delay so that the Pilot Program may continue without interruption after it would have otherwise expired on August 6, 2004. The Commission believes that accelerating the 30-day operative period and waiving the five-day pre-filing requirement is consistent with the protection of investors and the public interest because it would allow the BSE to continue to provide standardized market open procedures for BOX that the BSE can surveil, enforce, and continue to evaluate without interruption after it would have otherwise expired on August 6, 2004.<sup>11</sup> 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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> See Securities Exchange Act Release No. 49192 (February 4, 2004), 69 FR 7051 (February 12, 2004) (SR-BSE-2004-05).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>11</sup> For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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-BSE-2004-28 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-BSE-2004-28. 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, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the BSE. 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-2004-28 and should be submitted on or before September 3, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### **SOCIAL SECURITY ADMINISTRATION**

##### **Privacy Act of 1974 as Amended; Computer Matching Program (SSA and State/Local Law Enforcement Agencies (SA)—Match Number 5001**

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a renewal of a computer matching program.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of a computer matching program that SSA will conduct with SA. **DATES:** SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice either by telefax to (410) 965-8582 or writing to the Associate Commissioner for Income Security Programs, 245 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Associate Commissioner for Income Security Programs as shown above.

##### **SUPPLEMENTARY INFORMATION:**

##### **A. General**

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100-503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching

by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

##### **B. SSA Computer Matches Subject to the Privacy Act**

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: August 6, 2004.

**Martin H. Gerry,**

*Deputy Commissioner for Disability and Income Security Programs.*

##### **Notice of Computer Matching Program, Social Security Administration (SSA) With State/Local Law Enforcement Agencies (SA)**

##### *A. Participating Agencies*

SSA and SA.

##### *B. Purpose of the Matching Program*

The purpose of this matching program is to establish conditions under which SA agree to disclose fugitive felon, parole, or probation violator information to SSA. SSA will use this information to determine eligibility under Title II, Title VIII, and Title XVI of the Social Security Act and to select representative payees.

##### *C. Authority for Conducting the Matching Program*

This matching operation is carried out under the authority of sections 202(x)(1)(A)(iv) and (v), 202(x)(3), 205(j)(2), 804(a)(2), 807(b) and 1611(e)(4) and (5) of the Social Security Act.

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