Approval of the Merger Agreement by the holders of E&H Common Stock is assured since Unitil controls the vote of these shares. Unitil does not, however, control the vote of any outstanding series of E&H Cumulative Preferred Stock. Unitil intends to solicit written consents in favor of the Merger Agreement and related transactions from the holders of each outstanding series of the E&H Cumulative Preferred Stock. The solicitation of consent is subject to New Hampshire law and the terms of E&H's governance documents. Under Section 7.04 of the New Hampshire Business Corporation Act, the holders of E&H Cumulative Preferred Stock can take action by unanimous written consent, and E&H's governance documents are in agreement. E&H has the right to call each outstanding series for redemption under the terms of each series and will call for redemption any series which does not consent to the Merger Agreement and related transactions. Therefore, the consent of the E&H Cumulative Preferred is assured.

Tax and Accounting Consequences of the Merger

The merger has been structured to qualify for tax purposes as a tax-free ''reorganization'' under section 368(a) of the Internal Revenue Code. As a result, no gain or loss will be recognized by CECo or E&H or the holders of CECo Common Stock, CECo Non-Cumulative Preferred Stock, CECo Cumulative Preferred Stock, E&H Common Stock or E&H Cumulative Preferred Stock. CECo and E&H expect that the merger will qualify as a common control merger for accounting and financial reporting purposes. The accounting for a common control merger is similar to a pooling of interests. Under this accounting treatment, the combination of the ownership interests of the two companies is recognized and the recorded assets, liabilities, and capital accounts are carried forward at existing historical balances to the consolidated financial statements of UES as the surviving company following the merger.

On a pro forma basis and giving effect to the merger, as of June 30, 2002, UES will have total assets of approximately $112,047,000, including net utility plant of $80,638,000, and operating revenues for the 12 months ended June 30, 2002 of approximately $110,316,000. UES's pro forma consolidation capitalization as of June 30, 2002 (assuming the exchange of all of the E&H Cumulative Preferred Stock for new shares of UES Cumulative Preferred Stock) will be as follows:

Common Stock Equity, 28,411,000,000 amount outstanding, 35%.

Preferred Stock, 1,195,000,000 amount outstanding, 1.5%.

Short-term Debt, 1,550,000,000 amount outstanding, 1.9%.

Long-term Debt, 50,000,000,000 amount outstanding, 61.6%.

Money Pool Matters

CECo and E&H participate in the Until system money pool arrangement (''Money Pool'') that is funded, as needed, through bank borrowings and surplus funds invested by the participants in the Money Pool and as authorized by HCAR Nos. 35–26737 (June 30, 1997); 35–27182 (June 9, 2000); 35–37207 (Dec. 15, 2000) and 35–27345 (Feb. 14, 2001). Participation in the Money Pool, including short-term debt borrowings, by CECo and E&H are authorized by the New Hampshire Public Utility Commission and, therefore, are exempt under rule 52 of the Act. However, borrowings by and loans to Unitil's other utility subsidiary, Fitchburg Gas and Electric Light Company (''Fitchburg''), dare not exempt. Following the merger, it is proposed that UES be authorized to make loans to Fitchburg on the same terms as CECo's and E&H's current authorization. All other terms, conditions and limitations under the Money Pool orders will continue to apply without change.

Order For Solicitation of Proxies and Contents

E&H has requested that an order be issued authorizing commencement of the solicitation of proxies or consents from the holders of the outstanding shares of its preferred stock for the purpose of seeking approval of the merger and related transactions and the solicitation of consents from bondholders in connection with the proposed indenture amendments. It appears to the Commission that the applicants' declarations regarding the proposed solicitation of proxies and consents should be permitted to become effective immediately under rule 62(d).

Fees, commissions and expenses paid or incurred in connection with the solicitation of proxies or consents are estimated to be not more than $2,000. Unitil further stats that no state or federal commission, other than this Commission, has jurisdiction over the solicitation of proxies or consents.

Unitil states, for purposes of rule 54, that the conditions specified in rule 53(a) are satisfied and that none of the adverse conditions specified in rule 53(b) exist. As a result, the Commission will not consider the effect on the Unitil system of the capitalization or earnings of any Unitil subsidiary that is an exempt wholesale generator or foreign utility company, as each is defined in sections 32 and 33 of the Act, respectively, in determining whether to approve the proposed transactions.

It is ordered, under rule 62 under the Act, that the declaration regarding the proposed solicitation of proxies or consents form the holders of outstanding shares of E&H preferred stock for the purpose of seeking approval of the merger and related transactions and the solicitation of consents from bondholders in connections with the proposed indenture amendments become effective immediately, subject to the terms and conditions contained in rule 24 under the Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–27119 Filed 10–23–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46675; File No. SR–OPRA–2002–04]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Plan to Revise Fees Charged by OPRA

October 17, 2002.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 4, 2002, the Options Price Reporting Authority (''OPRA'')[2] submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and

[1] 17 CFR 240.11Aa3–2.

[2] OPRA is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3–2 thereunder. *See* Securities Exchange Act Release No. 17638 (Mar. 18, 1981). The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the member exchanges. The five participants to the OPRA Plan that operate an options market are the American Stock Exchange LLC, the Chicago Board Options Exchange, Inc., the International Securities Exchange LLC, the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc. The New York Stock Exchange, Inc. is a signatory to the OPRA Plan, but sold its options business to the CBOE in 1997. *See* Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

Quotation Information (''OPRA Plan''). The proposed OPRA Plan amendment would revise device-based and Enterprise Rate professional subscriber fees charged by OPRA in respect of its Basic Service, and eliminate OPRA's ''Back-up Facility Access Fee.'' The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment.

I. Description and Purpose of the Amendment

The purpose of the amendment is to make modest increases in device-based and Enterprise Rate professional subscriber fees charged by OPRA in respect of its Basic Service. Specifically, OPRA proposes to increase by amounts ranging from 7.39% to 8.11% the device-based information fee payable to OPRA by professional subscribers to OPRA's Basic Service, and to increase by 7.5% the Enterprise Rate fee that these same subscribers may elect to pay as an alternative to the device-based fee. OPRA's Basic Service consists of market data and related information pertaining to equity and index options (''OPRA Data'').[3] Professional subscribers are persons who subscribe to OPRA Data and do not qualify for the reduced fees charged to nonprofessional subscribers. OPRA's Enterprise Rate is based on the number of a professional subscriber's U.S. registered representatives and independent investment advisers who contract with the subscriber to provide advisory services to the subscriber's customers. Professional subscriber device-based fees charged to members will continue to be discounted by two percent for members who preauthorize payment by electronic funds transfer through an automated clearinghouse system.

OPRA estimates that the overall effect of the proposed increases in Basic Service professional subscriber fees will be to increase revenues derived from these fees by approximately 7.5%.

The proposed increases in the device-based professional subscriber fees and in the Enterprise Rate fee are intended to generate additional revenues for OPRA that are needed to cover actual and anticipated increases in the costs of collecting, consolidating, processing and disseminating options market. These increases reflect the costs of continuing enhancements to and upgrades of the OPRA system to enable it to handle a greater volume of market information as a result of the continuing expansion of listed options trading, and to support OPRA's proposed new ''best bid and offer'' service planned for early 2003.

OPRA also proposes to eliminate its ''Back-up Facility Access Fee,'' in order to eliminate any possible impact this fee may have on discouraging OPRA's subscribers from establishing prudent back-up facilities.[4] Devices used solely as part of a back-up facility will no longer be subject to fees imposed by OPRA unless and until they are actually used in support of a professional subscriber's operations, in which event regular professional subscriber device charges will apply for each month in which such devices are so used.

II. Implementation of the OPRA Plan Amendment

Pursuant to paragraph (c)(3)(i) of Rule 11Aa3–2 under the Act,[5] OPRA designates this amendment as establishing or changing a fee or other charge collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities, thereby qualifying for effectiveness upon filing. The Commission may summarily abrogate the amendment within sixty days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3–2(c)(2) under the Act,[6] if it appears to the Commission that such action is necessary or appropriate in the public interest; for the protection of investors and the maintenance of fair and orderly markets; to remove impediments to, and perfect the mechanisms of, a national market system; or otherwise in furtherance of the purposes of the Act. In order to give persons subject to these fees advance notice of the changes, OPRA proposes to put them into effect beginning January 1, 2003.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment 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, and all written statements with respect to the proposed OPRA Plan amendment that are filed with the Commission, and all written communications relating to the proposed OPRA Plan amendment between the Commission and any person, other than those 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 at the principal offices of OPRA. All submissions should refer to File No. SR-OPRA–2002–04 and should be submitted by November 14, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

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[3] At this time, no changes are proposed to be made to fees charged for access to information pertaining to foreign currency options (''FCO'') provided through OPRA's FCO Service.

[4] The Back-up Facility Access Fee does not apply to OPRA's FCO Service.

[5] 17 CFR 240.11Aa3–2(c)(3)(i).

[6] 17 CFR 240.11Aa3–2(c)(2).

[7] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46683; File No. SR–CBOE–2002–27]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Chicago Board Options Exchange, Inc. Relating to Permanent Approval of the 100 Spoke RAES Wheel

October 17, 2002.

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 May 24, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' 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 CBOE. On July 17, 2002, the Exchange filed Amendment No. 1 to the proposed rule change.[3] On September 26, 2002, the Exchange filed Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit

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

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Nancy L. Nielsen, Director of Arbitration and Assistant Secretary, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated July 16, 2002 (''Amendment No. 1''). Amendment No. 1 is described in Section II.A., below.

[4] *See* Letter from Madge M. Hamilton, Legal Division, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated September 26, 2002 (''Amendment No. 2''). Amendment No. 2 is described in Section II.A., below.