

**SECURITIES AND EXCHANGE
COMMISSION**

[Release No. 34-40954; File No. SR-NASD-98-91]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Time Period for Filing Information Requests in Arbitration

January 19, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 8, 1998, the National Association of Securities Dealers, Inc., through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (e)(6) of Rule 19b-4 under the Exchange Act,³ which renders the proposal effective upon receipt of this filing by the Commission. 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

NASD Regulation is proposing to amend Rule 10321 of the National Association of Securities Dealers, Inc. ("NASD" or "Association"), to modify the earliest date to file document and information requests in arbitration proceedings from 20 business days to 45 calendar days after service of the Statement of Claim or upon filing of the Answer, whichever is earlier. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in *brackets*.

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RULES OF THE ASSOCIATION

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**10000. CODE OF ARBITRATION
PROCEDURE**

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10321. General Provisions Governing Pre-Hearing Proceedings

- (a) (No change)
- (b) Document Production and Information Exchange
 - (1) Any party may serve a written request for information or documents ("information request") upon another party [twenty (20) business] *45 calendar* days or more after service of the Statement of Claim by the Director of Arbitration or upon filing of the Answer, whichever is earlier. The requesting party shall serve the information request on all parties and file a copy with the Director of Arbitration. The parties shall endeavor to resolve disputes regarding an information request prior to serving any objection to the request. Such efforts shall be set forth in the objection.
 - (2)-(4) (No change)
 - (c)-(e) (No change)

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

In its filing with the Commission, NASD Regulation 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. NASD Regulation 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

The proposed rule change is intended to modify the earliest date to file document and information requests in arbitration proceedings from 20 business days to 45 calendar days after service of the Statement of Claim or upon filing of the Answer, whichever is earlier, to coincide with the recently amended time period to file an Answer to the Statement of Claim.

In a previous filing approved by the Commission⁴ and effective on March 16, 1998, NASD Regulation enlarged the time to answer an arbitration claim from 20 business days to 45 calendar days, and eliminated extensions of time to answer except in extraordinary circumstances. That change was proposed because requests for

extensions of time were common, generally because respondents needed additional time to develop a complete answer to the claim. The extension of time to 45 days was designed to ease the administrative burden on NASD Regulation staff by eliminating the burden of processing and granting routine extensions of time.

NASD Regulation has determined that a related change is necessary to the rule on discovery in arbitration, Rule 10321, which currently permits requests for documents and information to be made 20 business days or more after service of the Statement of Claim by the Director of Arbitration or upon filing of the Answer, whichever is earlier. The 20-day period was originally intended to coincide with the time to answer claims, in order to prevent the respondent from having to respond to a discovery request before it had prepared its answer. Since the time to answer has been extended to 45 days, however, Rule 10321 could require a party to respond to a document request in 20 business days (approximately a month), which would be over two weeks before the party's answer was due. Therefore, to maintain the original purpose of the discovery time period, NASD Regulation proposes that the time period in Rule 10321 be extended to 45 calendar days as well.

(b) Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Exchange Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that the proposed rule change will protect investors and the public interest by facilitating a more orderly discovery procedure for all parties.

(B) Self-Regulatory Organization's Statement of Burden on Competition

NASD Regulation 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 Exchange Act, as amended.

(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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(e)(6).

⁴ Exchange Act Rel. No. 39664 (February 13, 1998) (File No. SR-NASD-98-07) 63 FR 8727 (February 20, 1998).

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

The proposed rule change has been filed by the Association as a "non-controversial" rule change under Rule 19b-4(e)(6) under the Exchange Act.⁵ Consequently, 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) does not become operative until January 11, 1999, more than 30 days from December 8, 1998, the date on which it was filed, and the NASD provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Exchange Act and Rule 19b-4(e)(6) thereunder.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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 Exchange Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Exchange Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, D.C. 20549. 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 such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-98-91 and should be submitted by February 16, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-1699 Filed 1-25-99; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1511).

TIME AND DATE: 9 a.m. (EST), January 27, 1999.

PLACE: Chattanooga Office Complex, 110 Market Street, Chattanooga, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meetings held on December 9, 1998.

New Business

C—Energy

C1. Supplement to Contract No. 96X7C-108889-000 with Bailey Controls Company for genuine Bailey Controls spare parts, equipment, services, and training.

C2. Fixed-price contract with National Electric Coil for generator stator upgrades for various hydro plants.

C3. Contract with G-UB-MK Constructors for modification and supplemental maintenance work at TVA's Eastern Region fossil and hydro power generation facilities.

Information Items

1. Approval of recommendations for resolution of wage rate and other disputes with Laborers' International Union of North America.

2. Approval of implementation of the results of negotiations with the Public Safety Service Employees' Union over compensation for TVA annual employees for fiscal years 1999 and 2000.

3. Approval of recommendations resulting from the 63rd Annual Wage Conference, 1998—Construction Project Agreement Wage Rates.

4. Approval of termination of the Performance Incentive Plan.

5. Approval to file condemnation cases affecting the following transmission lines: Charleston District-Riceville, Bradley County, Tennessee; East Cleveland-Charleston District, Bradley County, Tennessee; Fulton-South Fulton, Itawamba County, Mississippi; Johnsonville-West Nashville Tap to Pomona and Burns, Dickson County, Tennessee; Oneida-

McCreary, Scott County, Tennessee; Oneida-McCreary, McCreary County, Kentucky; and Pinhook-Smyrna, Rutherford County, Tennessee.

6. Approval to enter into a nonexclusive license with Shilo Foods permitting Shilo Foods to practice and have practiced TVA's patent pending, reciprocating wetlands technology.

7. Sale of fee interest at public auction and sale of permanent easement to the United States Postal Service affecting approximately 20.21 acres of the White Bridge Road property in Davidson County, Tennessee, as well as a permanent easement over approximately 1.03 acres of adjoining land (Tract No. XNVSC-11, Parcels 1 and 2, and a portion of Tract No. XNVSC-6SU).

8. Grant of a permanent easement for electric system purposes affecting approximately 5.02 acres of the Russellville, Kentucky, Power Service Center, Logan County, Kentucky (Tract No. XRPSC-2).

9. Grant of a permanent easement to the Tennessee Department of Transportation affecting approximately 0.11 acre of Huntsville, Tennessee, Substation land, Scott County, Tennessee (Tract No. XHUNSS-1H).

10. Abandonment of transmission line easements and rights-of-way affecting approximately 8.16 acres in Giles County, Tennessee (Tract No. AP-104, Parcels A and B; Tract No. AP-105, Parcels A and B; and Tract No. PF-3, Parcels A, B, and C).

11. Sale of fee simple interest in approximately 2.88 acres of land located on the Toccoa River in Fannin County, Georgia, for purposes authorized in Section 4(k)(a) of the TVA Act (Tract No. XTOCA-1).

12. Sale of noncommercial, nonexclusive permanent easements to Claude Sylvester, Claude Dalton, Jr., and Charles Johnson for private water-use facilities affecting approximately 0.41 acre of land on Tellico Lake, Monroe County, Tennessee (Tract Nos. XTELR-204RE, -205RE, and -206RE).

13. Grant of a 30-year public recreation easement to Rhea County, Tennessee, for a public park affecting approximately 6 acres of land on Chickamauga Lake, Rhea County, Tennessee (Tract No. XTCR-195RE).

14. Grant of a permanent easement to the Siam Utility District for a well site, waterlines, utility lines, and an access road affecting approximately 0.11 acre of land on Wilbur Reservoir, Carter County, Tennessee (Tract No. XWIR-6U).

15. Award of a contract to General Electric Company (GE) for the rewind of the generator fields for the combustion

⁵ 17 CFR 240.19b-4(e)(6).