

scheduled gas main construction and maintenance to the KeySpan System. Except for the general liability and workers' compensation insurance provided to the principal contractor under OCIP, KIC does not intend to extend or provide to any non-affiliated company any insurance services, unless otherwise expressly authorized by the Commission. Currently, KIC assumes the risk of the more predictable loss layer from the commercial insurers for automobile and general liability losses and for workers' compensation. Commercial insurance continues to be purchased for "unpredictable" losses above the predictable loss layers for automobile and general liability and for workers' compensation from various commercial insurance companies. To the extent that KIC procures insurance at a lower cost than could be obtained through traditional insurers, the savings in the premiums flow through ratably to the KeySpan System companies through the operation of the allocation methodology used to establish premiums.

Applicants propose that KIC offer property, boiler and machinery, and "all risk" insurance services to the KeySpan System. KeySpan currently insures these property-related risks through the traditional, commercial insurance market. It has various deductibles ranging from \$100,000 on common structures to \$2,500,000 on the KeySpan System's power generation units. It purchases limits up to \$2 billion from the commercial insurance market. Due to the state of the commercial insurance market, KeySpan has not been able to obtain coverage below the minimum \$100,000 deductible. KeySpan says that this has created a burden for some of the smaller KeySpan System companies that do not want to expose themselves to such a large self-insured retention.

KIC could be utilized, Applicants state, to provide property-related coverage with smaller self-insured retentions to those KeySpan System companies that do not have such a large capacity for risk. KIC would allocate premiums based on the property values at KeySpan System company locations down to a level of a \$10,000 deductible. This added service would not increase costs to the KeySpan System because such costs are currently, and would continue to be, paid through operating expenses, Applicants state. There would be no additional staffing requirements for KeySpan System companies. To the extent that KIC can provide insurance at a lower cost than that which could be obtained through traditional insurers, the savings will continue to flow through ratably to the KeySpan System

companies through the allocation methodology used to establish premiums.

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

Jill M. Peterson,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48872; File No. SR-Amex-2003-100]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to Broker Voting on Stock Option and Equity Compensation Plans

December 3, 2003.

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 November 19, 2003, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On November 21, 2003, the Amex filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal and Amendment No. 1 on an accelerated basis.

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

The Exchange proposes to amend Amex Rule 577 and section 723 of the Amex *Company Guide* to provide that a member organization holding a customer's securities in "street" name will not be permitted to give a proxy to vote such shares without instructions from the customer when the matter to be

voted upon authorizes the implementation of or material amendment to a stock option or equity compensation plan.

Below is the text of the proposed rule change. Proposed new language is *italicized*; proposed deleted language is [bracketed].

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American Stock Exchange Constitution and Rules

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Rule 577. Giving Proxies by Member Organization

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* * * Commentary

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.11 When member organization may not vote without customer instructions.—In the list of meetings of stockholders, after proxy material has been reviewed by the Exchange, each meeting will be designated by an appropriate symbol to indicate either (a) that members may vote a proxy without instructions of beneficial owners, (b) that members may not vote specific matters on the proxy, or (c) that members may not vote the entire proxy.

Generally speaking, a member organization may not give a proxy to vote without instructions from beneficial owners when the matter to be voted upon:

(1) through (8)—No change.

(9) involves waiver or modification of preemptive rights [(except when the company's proposal is to waive such rights with respect to shares being offered pursuant to stock option or purchase plans involving the additional issuance of not more than 5% of the company's outstanding common shares (see Item 12))];

(10) and (11)—No change.

(12) [authorizes issuance of stock, or options to purchase stock, to directors, officers, or employees in an amount which exceeds 5% of the total amount of the class outstanding] *authorizes the implementation of any equity compensation plan, or any material revision to the terms of any existing equity compensation plan (whether or not stockholder approval of such plan is required by Section 711 of the Exchange's Company Guide);*

(13) through (18)—No change.

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American Stock Exchange Company Guide

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¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Claudia Crowley, Vice President, Listing Qualifications, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated November 20, 2003 ("Amendment No. 1"). In Amendment No. 1, the Exchange made technical corrections to the proposed rule change to correct typographical errors in the proposed rule text and an incorrect footnote citation in the proposal.