

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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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-BX-2010-089 and should be submitted on or before January 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010-31628 Filed 12-15-10; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63522; File No. SR-Phlx-2010-175]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX LLC To Change Implementation Date for Direct Access Fees

December 10, 2010.

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 December 9, 2010, NASDAQ OMX PHLX LLC ("Phlx" or the "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 self-regulatory organization. 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 a rule change to assess "direct access" fees on customers receiving Exchange data within the Exchange's co-location facility beginning on January 1, 2011, rather than December 1, 2010. Direct access fees applicable to such customers were Noticed [sic] in SR-PHLX-2010-170,<sup>3</sup> immediately effective as of the filing on November 24, 2010, with an implementation date of December 1, 2010. In order to assure complete and clear prior notification to all affected customers, the Exchange is changing the implementation date of the fee schedule change to January 1, 2011.

This change does not require a change in the language of the rule itself.

#### 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 Exchange 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 Exchange 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

In SR-PHLX-2010-170,<sup>4</sup> the Exchange amended its fee schedule to correct an anomaly that effectively exempted certain customers residing within the Exchange's co-location facility from paying a monthly fee for direct access to Exchange data, while customers that receive data from an extranet and reside outside the co-location facility are assessed the fee. The inequity was a result of the definition of "direct access" in the fee schedule, which did not by its terms clearly apply to data feeds provided to customers through distributors located within the co-located facility. That rule filing expanded the definition of "direct

access" and operated to assess the same direct access fee on all firms that have access to the Exchange's raw data feeds, whether co-located or not.

The Notice of Filing and Immediate Effectiveness for this fee contained an implementation date of December 1, 2010. The effort to identify and notify all customers potentially affected by this rule change, however, has proven more time-consuming than expected. To assure that all customers that will be assessed the direct access fee have adequate prior notification, the Exchange is delaying implementation of the fee until January 1, 2011. None of the co-located customers that would have been newly subject to the direct access fee during December 2010 as a result of the fee amendment in SR-PHLX-2010-170 will be charged this fee during December 2010.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>5</sup> in general, and with Sections 6(b)(5) of the Act,<sup>6</sup> in particular. The proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The filing ensures clear and complete prior notification to customers affected by a fee change that permits transparent, uniform fees for direct access to Exchange data for all customers, whether co-located or not.

In addition, the Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>7</sup> in general, and with Section 6(b)(4) of the Act,<sup>8</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which The [sic] Exchange operates or controls. The Exchange notes that delayed implementation of the amendment will best serve the interests of customers affected by the fee change.

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Securities Exchange Act Release No. 63443 (December 6, 2010) (SR-Phlx-2010-170).

<sup>4</sup> *Id.*

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition 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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>9</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change 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 Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### 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-Phlx-2010-175 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-Phlx-2010-175. 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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-Phlx-2010-175 and should be submitted on or before January 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010-31630 Filed 12-15-10; 8:45 am]

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### SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

#### In the Matter of Alternate Energy Holdings, Inc.; Order of Suspension of Trading

December 14, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Alternate Energy Holdings, Inc. ("AEHI") because of questions regarding the accuracy and adequacy of disclosures by AEHI concerning, among other things: (1) The stock sales of certain AEHI officers, (2) the status and viability of funding to build a nuclear reactor, and (3) executive compensation. AEHI is quoted on the OTC Bulletin Board and on the Pink Sheets operated by Pink OTC Markets, Inc. under the ticker symbol "AEHI."

The Commission is of the opinion that the public interest and the protection of

investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EST, on December 14, 2010 through 11:59 p.m. EST, on December 28, 2010.

By the Commission.

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010-31698 Filed 12-14-10; 4:15 pm]

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### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

[Docket No. FAA-2010-1220]

#### Airport Improvement Program: Proposed Changes to Benefit Cost Analysis (BCA) Threshold

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of Availability of Draft Guidance and Request for Comments.

**SUMMARY:** The Federal Aviation Administration (FAA) is issuing this Notice to advise that FAA has developed draft guidance modifying its policy requiring benefit cost analyses (BCA) for capacity projects when applying for Airport Improvement Program (AIP) grants for capacity projects at the discretion of the Secretary of Transportation. This modification proposes to raise the threshold at which BCAs are required, from \$5 million to \$10 million in AIP Discretionary funds.

FAA invites airport sponsors and other interested parties to comment on the draft guidance. FAA will consider these comments in promulgating final BCA guidance for airport sponsors.

**DATES:** Send your comments on or before January 31, 2011. The FAA will consider comments received on the proposed policy guidance. Any necessary or appropriate revision to the guidance resulting from the comments received will be adopted as of the date of a subsequent publication in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Dennis Walsh, Financial Analysis and Passenger Facility Charge Branch (APP-510), Room 619, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591;

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 200.30-3(a)(12).