

NUCLEAR ENERGY CO. Indirect License Transfer of Millstone Licenses; Petition to Intervene" be held on September 13, and on less than one week's notice to the public.

By a vote of 5-0 on September 13, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of NORTHERN STATES POWER COMPANY (Monticello Nuclear Generating Plant; Prairie Island Nuclear Generating Plant, Units 1 and 2; and Prairie Island Independent Spent Fuel Storage Installation); Docket Nos. 50-263-LT, 50-282-LT, 50-306-LT, and 70-10-LT; Petitioners' Aug. 15, 2000 Motion for Reconsideration of CLI-00-14 (issued Aug. 1, 2000)." be held on September 13, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at:
<http://www.nrc.gov/SECY/smj/schedule.htm>

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301-415-1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmmh@nrc.gov or dkw@nrc.gov.

Dated: September 15, 2000.

William M. Hill, Jr.,
SECY Tracking Officer, Office of the Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-2462; 812-11962]

Bill Gross' idealab!; Notice of Application

September 15, 2000.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Temporary order and notice of application for an order under section 3(b)(2) of the Investment Company Act of 1940 (the "Act").

SUMMARY: Applicant Bill Gross' idealab! ("idealab!") seeks an order under section 3(b)(2) of the Act declaring it to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities. Applicant creates, launches, and operates a network of interactive communications businesses. Applicant also has received a temporary order issued pursuant to section 3(b)(2) of the Act exempting idealab! from all provisions of the Act until the

Commission takes final action on the application or until October 24, 2000, if earlier. Previously, on March 28, 2000 and July 26, 2000, temporary orders were issued pursuant to section 3(b)(2) of the Act exempting applicant from all provisions of the Act until September 25, 2000.

Filing Dates: The application was filed on January 28, 2000, and amended on March 14, 2000 and July 19, 2000.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 6, 2000 and should be accompanied by proof of service on the applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609; Applicant, 130 West Union Street, Pasadena, CA 91103.

FOR FURTHER INFORMATION CONTACT:

Janet M. Grossnickle, Branch Chief, or Nadya B. Roytblat, Assistant Director, at (202) 942-0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549-0102 (tel. 202-942-8090).

Applicant's Representations

1. Idealab!, a California corporation, was founded in 1996 by Bill Gross, its Chairman. Idealab! states that it was formed for the purpose of utilizing real-time interactive communications to satisfy market demand for goods and services through a network of companies ("Network Companies"). Idealab! represents that it is not in the business of investing, reinvesting or trading in securities.

2. Idealab!'s Network Companies fall into two categories: (i) Interactive communications infrastructure and services, and (ii) Internet commerce and content. As of March 1, 2000, Idealab!'s network of interactive communications businesses consisted of 45 Network

Companies, 28 of which were majority-owned subsidiaries of idealab! or companies which idealab! controlled within the meaning of section 2(a)(9) of the Act (majority-owned and controlled subsidiaries of idealab!, collectively, "Controlled Companies").¹ Idealab! states that it also holds non-controlling interests in 17 other operating companies and 3 companies that make investments in interactive communications companies.

3. Idealab! states that it has structured its business operations by creating a network of interactive communications businesses, with each product or service provided by a separate company, rather than operating as one large company. Idealab! further states that its goal has been to retain 50-70% of the equity in each Network Company it created, but its interests in some have been diluted by strategic investors and, on occasion, by other investors when idealab! was unable to participate in successive rounds of financing. Although idealab! anticipates that it will continue to build important business relationships by permitting strategic investors to acquire equity stakes in some of its Controlled Companies, idealab! believes it will be able to maintain a 25% or greater equity interest in its current and future Controlled Companies.

4. Idealab! represents that it does not provide capital to the Network Companies with a view to profit from the sale of securities, but has been building a network of synergistic interactive communications businesses that it intends to control and operate for the long term. As idealab! builds its network of companies, idealab! expects that it might have a need to sell its interest in certain companies that no longer fit or contribute to the network. Idealab! does not contemplate selling interests in Network Companies in the ordinary course of business. Additionally, idealab! intends to acquire more equity in certain of its Controlled Companies and expects to retain controlling interests in many of the Network Companies while creating and capitalizing more Controlled Companies. Idealab! represents that all of the Controlled Companies are currently "controlled primarily" by idealab! within the meaning of rule 3a-1 under the Act, and that all or

¹ Section 2(a)(9) defines "control" as the power to exercise a controlling influence over the management or policies of a company. That section creates a presumption that an owner of more than 25% of the outstanding voting securities of a company controls the company. The terms "Controlled Companies" and "Network Companies" do not include companies that are investment companies or are relying on section 3(c)(1) or 3(c)(7) of the Act.

substantially all of the Controlled Companies will be "controlled primarily" by idealab! in the future.

5. Idealab! states that it generates and tests ideas for new interactive communications businesses. Idealab! states that if testing results suggest that the idea could form the basis for a profitable interactive communications business, idealab! forms and capitalizes a new entity. Idealab! states that it then recruits a management team, provides space in its facilities, and provides on-going strategic guidance, creative design, web development, accounting, legal and administrative services to the business. Idealab! represents that it previously referred to itself as an "incubator" of Internet companies to connote its activities of creating and then nurturing the development of Internet companies.

Applicant's Legal Analysis

1. Idealab! requests an order under section 3(b)(2) of the Act declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities, and therefore not an investment company as defined in the Act.

2. Under section 3(a)(1)(C) of the act, an issuer is an investment company if it is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value in excess of 40% of the value of the issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis. Under section 3(a)(2) of the Act, investment securities include all securities except Government securities, securities issued by employees securities companies, and securities issued by majority-owned subsidiaries of the owner which (i) are not investment companies, and (ii) are not relying on the exclusions from the definition of investment company in section 3(c)(1) or 3(c)(7) of the Act.

3. Idealab! states that, as of March 1, 2000, approximately 71% of its assets consists of investment securities as defined in section 3(a)(2). Accordingly, idealab! may be deemed an investment company within the meaning of section 3(a)(1)(C) of the Act. Idealab! asserts that, as of March 1, 2000, approximately 29% of its total assets were comprised of interests in majority-owned subsidiaries and approximately 46% of idealab!'s assets consisted of companies primarily controlled by idealab! for purposes of rule 3a-1 under the Act. Rule 3a-1 provides an exemption from the definition of investment company if no more than 45% of a company's total

assets consist of, and not more than 45% of its net income over the last four quarters is derived from, securities other than Government securities and securities of majority-owned subsidiaries and companies primarily controlled by it. Idealab! states that it believes it will not be able to rely on rule 3a-1 because of the net income generated from the sale of a minority interest in 1999 (discussed below) and because its Controlled Companies are not anticipated to have any significant income for some years and thus will not pay dividends or other distributions to idealab!.

4. Section 3(b)(2) of the Act provides that, notwithstanding section 3(a)(1)(C), the Commission may issue an order declaring an issuer to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities either directly, through majority-owned subsidiaries, or through controlled companies conducting similar types of businesses. Idealab! submits that it meets the requirements of section 3(b)(2) because it is primarily engaged, through its Controlled Companies, in the business of identifying, creating and operating interactive communications businesses.

5. In determining whether an applicant is "primarily engaged" in a non-investment company business under section 3(b)(2), the Commission considers the following factors: (i) applicant's historical development, (ii) applicant's public representations of policy, (iii) the activities of applicant's officers and directors, (iv) the nature of applicant's present assets, and (v) the sources of applicant's present income.²

a. *Historical Development.* Idealab! states that it was incorporated in 1996 to act as an "idea" "lab" and to create and operate businesses that use the interactive communications to satisfy market demand for goods and services. Idealab! states that it has operated consistently with this business plan by creating, capitalizing and operating new interactive communications companies based on internally-generated ideas and that it plans to create and capitalize more Controlled Companies in the future. Idealab! represents that it continues to have active involvement in the operation of the Network Companies after their early development stage and throughout their life cycles. Idealab! further states that it recently expended significant financial resources to maintain or increase its controlling positions in various Network Companies.

² *Tonopah Mining Company of Nevada*, 26 SEC 426, 427 (1947).

b. *Public Representations of Policy.* Idealab! states that it has consistently held itself out as being engaged in the business of creating and operating interactive communications companies and has never referred to itself as an investment company. Idealab! states that it describes itself as engaged in the business of identifying, creating and operating interactive communications businesses. Idealab! states that its previous references to "incubation" were intended to connote activities of creating and then nurturing interactive communications companies and reflect the fact that idealab! brings companies into existence. Idealab! states that its use of the term "incubator" did not mean that idealab! intended to dispose of the Network Companies once they progressed beyond the initial development stage. Idealab! states that some in the press may have perceived idealab! as a venture capital investor. Idealab! asserts that its history of operations and business strategy are substantially distinct from that of a venture capital pool. Idealab! states that it does not provide capital with a view to profit from the sale of securities, but has been building a network of interactive communications businesses that idealab! intends to control and operate for the long-term. Idealab! states that its policy and goal is to be actively involved in operating its Network Companies, rather than investing or trading in securities.

c. *Activities of Officers and Directors.* Idealab! states that the primary activities of its directors and officers are serving idealab!'s Network Companies and creating, testing and implementing ideas for new interactive communications companies. Idealab! states that approximately 85% of the idealab!'s officers' and directors' time is currently spent working with existing Network Companies or evaluating new company concepts, 12% of their time is allocated to assessing potential strategic acquisitions of companies formed by others, and 3% of their time is spent on matters relating to idealab!'s subsidiaries that manage venture capital funds. Idealab! asserts that its officers' and directors' educational and business backgrounds are predominately in the fields of computer technology and business management, and only four of idealab!'s seventeen senior officers and directors have a securities investment background or private equity experience. Idealab! states that its senior management hold positions in, and work closely with, management teams of the Network Companies. In addition, idealab! states that its personnel serve

and actively participate on the boards of directors of most of the Network Companies and all of the Controlled Companies. Idealab!'s approximately 200 employees, collectively, spend approximately 60% of their time working with the Network Companies, 25% of their time evaluating new company concepts, and 15% of their time on information systems, accounting and recruitment matters relative to idealab! itself.

d. *Nature of Assets.* Idealab! states that, as of March 1, 2000, idealab!'s Controlled Companies represented 75% of idealab!'s total assets on an unconsolidated basis (excluding government securities and cash items). Idealab! represents that in the future at least 60% of its total assets on an unconsolidated basis (exclusive of Government securities and cash items) will consist of securities issued by Controlled Companies ("60% Test"). For purposes of determining whether the 60% Test has been met, interests in Controlled Companies that are not majority-owned subsidiaries of idealab! will only be included if they are conducting similar types of businesses within the meaning of section 3(b)(2) of the Act.

e. *Sources of Income.* Idealab! states that its Network Companies are emerging interactive communications businesses that typically generate little or no income for idealab! in the form of dividends. Idealab! asserts that its activities as an operating company therefore are more appropriately analyzed by evaluating idealab!'s proportionate share of the revenues of its Controlled Companies as well as idealab!'s total revenues. Idealab! states that, for the four quarters ending October 31, 1999, idealab!'s revenues attributable to its Controlled Companies represented approximately 78% of idealab!'s total revenues.³ Idealab! states that this figure was derived by comparing (i) idealab!'s consolidated revenues, idealab!'s proportionate share of the revenues of its Controlled Companies that are not majority-owned, and idealab!'s income derived from interests in Controlled Companies to (ii)

idealab!'s total revenues comprised of the items in (i) as well as income derived from sales of interests in non-controlled companies and interest income. Idealab! states that in late 1999 it received \$193 million of revenue from the sale of stock of eToys, Inc. ("eToys"), a Network Company. Applicant represents that idealab! originally formed eToys as a wholly-owned subsidiary in early 1997. Applicant states that its equity stake was diluted to below 25% as eToys went through successive financing rounds, including an initial public offering in May 1999. Applicant represents that it sold part of its interest in eToys in late 1999 to address applicant's status under the Act. As a result of this disposition, idealab! states that, for the four quarters ending January 31, 2000, idealab!'s revenues attributable to its Controlled Companies represented approximately 39% of idealab!'s total revenues. Idealab! represents that it does not intend to derive a significant percentage of its revenues from income derived from sales of interests in non-controlled companies in the future.

6. Idealab! thus asserts that it qualifies for an order under section 3(b)(2) of the Act.

Temporary Order

In view of the circumstances set forth in the application, it is found that cause has been shown for granting an extension of the automatic exemption period provided by section 3(b)(2) upon the filing of an application. Accordingly,

It Is Ordered, under section 3(b)(2) of the Act, that a temporary order exempting idealab! from all provisions of the Act until the Commission takes final action on the application or, if earlier, until October 24, 2000, the first business day following a thirty-day period after the automatic exemption, as previously extended, expires is hereby granted effective immediately.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-43290; File No. SR-PCX-00-30)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to a New Fee on Market Makers' Transactions in Designated Equity Option Issues

September 13, 2000.

Pursuant to section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 18, 2000, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On September 11, 2000, the PCX submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The PCX proposes to adopt a new fee to be imposed on transactions of market makers (including Lead Market Makers) at the rate and for the use described below. The text of the proposed rule change is available at the principal offices of the PCX.

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.

³ Idealab! states that, for purposes of this analysis, revenues from idealab!'s majority-owned subsidiaries were consolidated, and revenues of other Controlled Companies were attributed to idealab! in proportion to idealab!'s interests in the Controlled Companies. Idealab! uses the equity method of accounting for Controlled Companies that are not majority-owned subsidiaries. Idealab! notes that idealab!'s revenues attributable to its Controlled Companies would represent approximately 76% of idealab!'s total revenues if the revenues of idealab!'s consolidated majority-owned subsidiaries were attributed to idealab! in proportion to idealab!'s interests in the majority-owned subsidiaries.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.