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The Denver Post

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El Paso adopts policy on 'poison pill'

HOUSTON (AP) -- El Paso Corp. has adopted a policy that would allow for implementation of a "poison pill" antitakeover defense should it be necessary, the nation's largest natural gas pipeline company announced Friday.

Company spokesman Bruce Connery noted El Paso used to have a poison pill provision in place, but it expired in 2002. The policy announced Friday doesn't establish a poison pill, but lays out how El Paso would do so.

Connery said El Paso's governance committee routinely reviews items "of this nature," and the committee decided to adopt the policy in response to discussions with shareholders. He said the policy announcement doesn't signal that a takeover attempt is on the horizon for Houston-based El Paso.

"We would view this from a corporate governance standpoint as a normal course of business," Connery said.

Poison pills allow companies to try to thwart takeovers. For example, PeopleSoft Inc. has a poison pill that would allow the company to flood the market with new shares and make Oracle's ongoing takeover attempt prohibitively expensive should Oracle acquire a 20 percent stake.

Rupert Murdoch's News Corp. recently adopted a poison pill defense after Denver media investor John Malone made a transaction that would allow him to swap a portion of his nonvoting stock for voting stock and hike his voting interest in the company from 9 percent to 17 percent. Malone's company, Liberty Media Corp., says it's not trying to take control of News Corp.

Connery declined to speculate on the nature of a potential poison pill for El Paso.

The company said if the board "is presented with a set of facts and circumstances which leads it to conclude that adopting a rights plan would be in the best interests of

stockholders," directors will seek prior stockholder approval for a poison pill unless a majority director vote determines immediate approval is necessary.

If adopted without stockholder approval, a poison pill would be presented to stockholders for ratification within a year or expire within a year without being renewed or replaced, the company said. If the board adopts a poison pill that is rejected by stockholders, it would evaporate.

The company also announced Friday that its 2005 annual meeting will be held in late May next year and that stockholder proposals to be included in El Paso's proxy statement must be submitted by Jan. 7.

El Paso held its delayed 2004 shareholder meeting just last month after grappling with financial restatements and other turmoil.

In February, El Paso announced a 41 percent cut in proven oil and gas reserves, which analysts view as an estimate of an energy company's future earning power. An internal investigation into the reserves reduction at the 7,300-employee company unveiled needed accounting revisions for natural gas hedges, meaning billions in writedowns of shareholder equity and previously reported earnings.

In September, the company disclosed in its annual regulatory filing that the company lost \$193 billion in 2003 and restated 2001 and 2002 earnings to reflect the writedown of reserves and corrected accounting for hedges from 1999-2002. In the restatements, El Paso said the company lost \$1.75 billion in 2002 rather than \$1.47 billion. The 2001 restatement wiped out \$93 million in earnings, saying the company actually lost \$447 million.

El Paso shares closed up 20 cents at \$10.10 Friday on the New York Stock Exchange, at the high end of the company's 52-week range of \$6.50 to \$11.85.

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