

managed accounts ("Harbert" and "Applicant"), has filed an application ("Application") requesting an exemption under section 3(a)(4) of the Act from all provisions of the Act except section 9(a)(2).

The Application is filed in connection with Harbert's anticipation that funds and accounts managed by it will receive, in the aggregate, more than 10% of the voting securities of a public-utility company, the reorganized NorthWestern Corporation ("NorthWestern" and "Debtor"), pursuant to Debtor's Second Amended and Restated Plan of Reorganization dated August 27, 2004 ("Plan of Reorganization") under Chapter 11 of the United States Bankruptcy Code ("Chapter 11"), filed in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").¹

Harbert Management Corporation ("HMC"), founded in 1945, is a privately held firm that specializes in non-traditional money management activities. HMC serves pension trusts, endowments and foundations, pension funds, banks, insurance companies, family offices, and high net worth individuals. HMC has sponsored numerous funds, including Harbert. Harbert's investment team also manages a separate managed account, Alpha Sub US Fund VI, LLC ("Alpha"). HMC has a diversified portfolio of assets under management. Investments range across a wide variety of industries; diversification across asset classes is a fundamental goal.

HMC Investments, Inc., a wholly owned subsidiary of HMC, is a registered broker/dealer and member NASD, SIPC. The Harbinger Group, Inc., an indirect wholly owned subsidiary of HMC, is an investment advisor registered with the Commission.

Applicant states that neither HMC nor any of the funds or accounts managed by it is currently a "public-utility company," a "public-utility holding company," or an "affiliate" of a public-utility company or public-utility holding company within the meaning of the Act.

As detailed in the Disclosure Statement dated August 27, 2004 ("Disclosure Statement"), filed in connection with the Plan of Reorganization, NorthWestern is a stand-alone public-utility company engaged in the generation, transmission and distribution of electricity and the distribution of natural gas to approximately 608,000 customers in Montana, South Dakota and Nebraska.

NorthWestern is subject to the jurisdiction of the Federal Energy Regulatory Commission with respect to the issuance of securities and the setting of wholesale electric rates. Its Montana operations are subject to the jurisdiction of the Montana Public Service Commission and its South Dakota operations, to the jurisdiction of the South Dakota Public Utilities Commission.

On September 14, 2003, NorthWestern filed a petition for relief under Chapter 11. In the succeeding eleven months, NorthWestern, as debtor-in-possession, negotiated with creditors, state regulators, and other parties, a plan of reorganization that provides for the reorganization of the utility as a stand-alone company. In so doing, NorthWestern has divested nearly all of its interests in nonutility businesses. Under the Plan of Reorganization, NorthWestern's unsecured creditors will receive *pro rata* distributions of all of the common stock of a reorganized NorthWestern (subject only to dilution by relatively small amounts of stock issued pursuant to a management incentive plan). NorthWestern will continue to operate as a public-utility company.

Applicant states that, as part of their investment strategies, Harbert and Alpha regularly attempt to identify undervalued securities of financially distressed companies. Both hold publicly traded Senior Notes of NorthWestern issued in 2002. Harbert acquired these securities in the ordinary course of its business on behalf of the managed funds and accounts. Harbert or its administered funds also own beneficially several issuances of NorthWestern's subordinated debt securities. These securities were acquired for investment purposes and continue to be held exclusively for such purposes.

Harbert was active in the reorganization proceedings and engaged in negotiations with NorthWestern, other creditor groups, and other parties to develop the Plan of Reorganization. Applicant states that the Plan of Reorganization has broad support. A hearing on confirmation was held on August 25, 2004 and concluded on October 6, 2004. The requested effective date is no later than November 1, 2004.

Under the Plan of Reorganization, the funds and accounts managed by Harbert expect to receive, in the aggregate, up to a maximum of approximately 26.5% of the common stock of reorganized NorthWestern, if Harbert and affiliates

were to exercise all available warrants.² Applicant states that it is entitled to exemption under section 3(a)(4) because it will be "temporarily a holding company solely by reason of the acquisition of securities for purposes of liquidation or distribution in connection with a bona fide debt previously contracted." Harbert requests an exemption under section 3(a)(4) for a period of up to three years. Harbert plans to reduce its aggregate holdings to less than 10% of NorthWestern's voting securities in a manner that will enable Harbert to maximize its return on the investment over the three-year period.

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

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4-3169 Filed 11-15-04; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Waiver of the Nonmanufacturer Rule for Other Communications Equipment Manufacturing.

SUMMARY: The U. S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for Other Communications Equipment Manufacturing. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses, service-disabled veteran-owned small businesses, SBA's Very Small Business Program or awarded through the SBA's 8(a) Business Development Program.

DATES: This waiver is effective December 1, 2004.

FOR FURTHER INFORMATION CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619-0422; by FAX at (202) 481-1788; or by e-mail at edith.butler@sba.gov.

² Under the Plan of Reorganization, this percentage could be affected if certain unsecured creditors elect not to receive distributions of common stock of reorganized NorthWestern. This event would increase the percentage of the common stock distributed to the remaining unsecured creditors, including the Harbert funds and accounts.

¹ In re NorthWestern Corp., Case No. 03-12872 (CGC) (Bankr. D. Del.) (filed Sept. 14, 2003).

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, SBA's Very Small Business Program or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule.

The SBA regulations imposing this requirement are found at 13 CFR 121.406 (b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1204, in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines "class of products" based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code established by the Federal Procurement Data System.

The SBA received a request on June 29, 2004, to waive the Nonmanufacturer Rule for Other Communications Equipment Manufacturing. In response, on July 28, 2004, SBA published in the Federal Register a notice of intent to waive the Nonmanufacturer Rule for Other Communications Equipment Manufacturing.

SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. In response to this notice, comments were received from interested parties. SBA has determined from these sources that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer Rule for Other Communications Equipment Manufacturing, NAICS 334290.

Authority: 15 U.S.C. 637(a)(17).

Dated: November 9, 2004.

Emily Murphy,

Acting Associate Administrator for Government Contracting.

[FR Doc. 04-25405 Filed 11-15-04; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending October 29, 2004

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST-04-19513.

Date Filed: October 27 2004.

Parties: Members of the International Air Transport Association.

Subject: CTC COMP 0507 dated 29 October 2004 Mail Vote 418—Resolution 004a—CTC12/23 Restriction of Applicability of Resolutions Intended effective date: 15 November 2004.

Docket Number: OST-2004-19544.

Date Filed: October 29, 2004.

Parties: Members of the International Air Transport Association.

Subject: PTC23 EUR-SASC0134 dated 2 November 2004 Mail Vote 419—Resolution 010b—Special Passenger Amending Resolution from India to Europe Intended effective date: 16 November 2004.

Andrea M. Jenkins,

Program Manager, Federal Register Liaison.

[FR Doc. 04-25411 Filed 11-15-04; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending October 29, 2004

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*see* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer

period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST-2004-19500.

Date Filed: October 26, 2004.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 16, 2004.

Description: Application of Air Executive LU.at GmbH requesting a foreign air carrier permit authorizing it to conduct charter foreign air transportation of persons, property, and mail between any point or points in Austria and any point or points in the United States; and between any point or points in the United States and any point or points in a third country or countries, provided that such service constitutes part of a continuous operation, with or without a change of aircraft, that includes air service to Austria for the purpose of carrying local traffic between Austria and the United States, and other charters between third countries and the United States.

Docket Number: OST-2004-19518.

Date Filed: October 28, 2004.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 18, 2004.

Description: Application of Aviation Ventures, Inc. d/b/a Vision Air requesting a certificate of public convenience and necessity to engage in interstate scheduled air transportation of passengers, property, and mail using 19 passenger seat aircraft.

Docket Number: OST-2004-19543.

Date Filed: October 29, 2004.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 19, 2004.

Description: Application of Lakeland Air Transport, Inc., requesting a certificate of public convenience and necessity to engage in interstate air transportation of persons, property, and mail operating 5 roundtrip flights between Ft. Lauderdale, FL and Gulfport, MS.

Andrea M. Jenkins,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 04-25410 Filed 11-15-04; 8:45 am]

BILLING CODE 4910-62-P