DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

201440034

JUL 11 2014

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In re: **********
******* (Plan No. ****)
EIN: **********
Company = **********
Plan = **********
403(b) Plan = **********

Dear **********:

This letter constitutes notice that, with respect to the Company's requests dated March 15, 2012 and March 15, 2013, section 412(c)(7) of the Internal Revenue Code ("Code") and section 304(b) of the Employee Retirement Income Security Act ("ERISA") do not apply to the amendments of the Plan to cease benefit accruals effective February 12, 2012 for non-union employees and various dates before March 15, 2013 for some union employees, and the establishment of the 403(b) Plan effective January 1, 2012.

The Plan is a defined benefit plan. It was amended to cease benefit accruals for non-collectively bargained employees effective December 31, 2011. The Plan covers a significant majority of the Company's employees, some of whom are covered by a collective-bargaining agreement. Plan amendments have been enacted to freeze benefit accruals for some collectively bargained employees and the Company intends to negotiate or continue negotiating with its remaining bargaining units to freeze accruals for the other unionized employees.

The 403(b) Plan was adopted effective January 1, 2012. The 403(b) Plan is a defined contribution plan with a qualified cash or deferred arrangement under section 403(b) of the Code covering substantially the same group of Company employees covered by the Plan. The 403(b) Plan provides for a core contribution of 2% of gross earnings for all benefit-eligible employees, with a matching employer contribution of 50% on the first 4% of deferrals for a maximum match of 2% and total contribution of 4%.

Section 412(c)(7)(A) of the Code and section 304(b)(1) of ERISA provide that if a waiver of the minimum funding standard under section 412(c) of the Code and section 303 of ERISA is in effect with respect to a plan that is amended to increase the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any

change in the rate at which benefits become nonforfeitable, such waiver shall not apply to any plan year ending on or after the date on which such amendment is adopted.

Section 412(c)(7)(B)(i) (section 412(f)(2)(A) prior to PPA '06) and section 304(b)(2)(A) of ERISA provide that section 412(c)(7)(A) of the Code (section 412(f)(1) prior to PPA '06) and section 304(b)(1) of ERISA shall not apply to any plan amendment which the Secretary of Labor determines to be reasonable and which provides only de minimis increases in the liabilities of the plan.

Reorganization Plan No. 4, which became effective December 31, 1978, transferred the authority indicated in Section 412(c)(7)(B)(i) from the Secretary of Labor to the Secretary of Treasury.

As described above, the Company amended the Plan to freeze benefit accruals for non-collectively bargained employees effective December 31, 2011, and simultaneously established the 403(b) Plan effective January 1, 2012. As such, any amendment increasing benefits in the Pension Plan or any other Plan sponsored by the Company covering substantially the same group of employees covered by the Pension Plan is subject to the restrictions of section 412(c)(7)(A) of the Code. The Company received waivers of the minimum funding standard for the Plan for the plan years ending December 31, 2011 and December 31, 2012 ("the funding waivers").

The Company's position is that section 412(c)(7)(A) of the Code and section 304(b) of ERISA do not apply to the amendments to the Plan and the establishment of the 403(b) Plan because the effect of these actions reduced pension contributions to the Plan and 403(b) Plan in total. In other words, the establishment of the 403(b) Plan and the gradual cessation of accruals to the Plan had the combined effect of producing a projected overall cost savings to the Company.

The actuarial and other financial information submitted show the establishment of the 403(b) Plan by the Company and the cessation of benefit accruals for the Pension Plan do not increase plan liabilities overall for the Company. The estimated reduction in the minimum required contribution as a result of the freezes implemented before or during 2011 and 2012 combined with the freeze on an additional participating group of employees in 2012 is greater than the 2012 employer costs for the 403(b) Plan, which creates significant savings for the Company over two years. Additional savings would occur if additional accrual freezes for the Plan are negotiated with its remaining bargaining units throughout 2013 and 2014. Thus, cessation of accruals to the Plan and the establishment of the 403(b) Plan will not produce an overall increase in plan liabilities during the amortization period of the Pension Plan's 2011 and 2012 funding waivers.

Because the total amount of the new employer contributions to the 403(b) Plan, when added to the minimum required contributions under section 412 of the Code to the Plan, does not exceed the required contribution to the Plan prior to the cessation of benefit accruals beginning in 2012, there will not be an increase in liabilities. Hence, the restriction on plan amendments found in section 412(c)(7)(A) of the Code and section 304(b) of ERISA does not apply because the establishment of the 403(b) Plan and the cessation of accruals in the Plan had the combined effect of producing a projected overall cost savings to the Company.

This ruling considers only the application of section 412(c)(7)(A) of the Code and section 304(b)(2) of ERISA, to the amendment described above and does not consider any other issues that may arise in connection with the Plan or the proposed amendment.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

We have sent a copy of this letter to the Manager, EP Classification in Baltimore, Maryland, and to the Manager, EP Compliance Unit in Chicago, Illinois.

If you require further assistance in this matter, please contact ********** at (****) ****-*****.

Sincerely,

William B. Hulteng, Manager
Employee Plans Technical

cc: **********

Manager, EP Classification
Baltimore, Maryland

Manager, EP Compliance Unit
Chicago, Illinois