

### *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 that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were neither solicited nor received.

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

*Because the foregoing proposed rule change:* (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) <sup>12</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

A proposed rule change filed under Rule 19b-4(f)(6) <sup>14</sup> normally may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) <sup>15</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii),<sup>16</sup> which would make the rule change operative upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the current Pilot Program to continue without interruption. The Commission notes that the standards under the Pilot Program are identical, for those companies qualifying under the Earnings Test, to those in effect on the Exchange prior to the adoption of the

current standards in 2005.<sup>17</sup> The NYSE represents that the continued listing standards proposed under the Pilot Program are higher than similar standards currently in place on other exchanges. In addition, the Commission notes that the pilot period will allow the NYSE and the Commission to continue to assess the new continued listing standards. Finally, the Commission notes that the deletion of the NYSE Arca Transfer Standard from Section 102.01C is not a substantive change, as that standard is no longer operative. For these reasons, the Commission designates the proposed rule change operative upon filing.<sup>18</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate 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.

### **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 Exchange 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-NYSE-2009-109 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSE-2009-109. 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 inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the 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-NYSE-2009-109 and should be submitted on or before November 30, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-26877 Filed 11-6-09; 8:45 am]

**BILLING CODE 8011-01-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 24, 2009**

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:* DOT-OST-2009-0267.

*Date Filed:* October 23, 2009.

<sup>19</sup> 17 CFR 200.30-3(a)(12).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

<sup>14</sup> *Id.*

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>16</sup> *Id.*

<sup>17</sup> See Securities Exchange Act Release No. 51813 (June 9, 2005), 70 FR 35484 (June 20, 2005) (SR-NYSE-2004-20).

<sup>18</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* November 13, 2009.

*Description:* Application of Atlas Air, Inc. ("Atlas") requesting a certificate of public convenience and necessity authorizing Atlas to engage in foreign charter air transportation of persons, property and mail. Atlas further requests an exemption to permit Atlas to conduct foreign charter air transportation of persons, property and mail for an initial period of one year or until the grant of the requested certificate authority, whichever is earlier.

*Docket Number:* DOT-OST-2009-0268.

*Date Filed:* October 23, 2009.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* November 13, 2009.

*Description:* Application of Atlas Air, Inc. ("Atlas") requesting a certificate of public convenience and necessity authorizing Atlas to engage in interstate charter air transportation of persons, property and mail.

**Renee V. Wright,**

*Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. E9-26906 Filed 11-6-09; 8:45 am]

**BILLING CODE 4910-9X-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Aviation Proceedings, Agreements Filed the Week Ending October 24, 2009

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1383 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* DOT-OST-2009-0262.

*Date Filed:* October 20, 2009.

*Parties:* Members of the International Air Transport Association.

*Subject:* TC123 North Atlantic (except between USA and Korea, Rep. of, Malaysia) Resolutions and Specified Fares Tables (Memo 0455). Intended effective date: 1 April 2010.

*Docket Number:* DOT-OST-2009-0263.

*Date Filed:* October 21, 2009.

*Parties:* Members of the International Air Transport Association.

*Subject:* TC123 Mid Atlantic, Resolutions and Specified Fares Tables

(Memo 0456). Intended effective date: 1 April 2010.

*Docket Number:* DOT-OST-2009-0264.

*Date Filed:* October 21, 2009.

*Parties:* Members of the International Air Transport Association.

*Subject:* TC123 South Atlantic, Resolutions and Specified Fares Tables (Memo 0457).

Intended effective date: 1 April 2010.

*Docket Number:* DOT-OST-2009-0265.

*Date Filed:* October 21, 2009.

*Parties:* Members of the International Air Transport Association.

*Subject:* TC123 North Atlantic, between USA and Korea, Rep. of Malaysia, Resolutions and Specified Fares Tables (Memo 0458). Intended effective date: 1 April 2010.

*Docket Number:* DOT-OST-2009-0269.

*Date Filed:* October 21, 2009.

*Parties:* Members of the International Air Transport Association.

*Subject:* CSC/31/Meet/005/09 dated 8 April 2009. CSC/Mail Vote/002/2009 dated 29 September 2009. Finally Adopted Resolutions: 600a, 600f, 600g, 600h, 600i, and Recommended Practice 1670. Intended effective date: 23 December 2009.

**Renee V. Wright,**

*Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. E9-26905 Filed 11-6-09; 8:45 am]

**BILLING CODE 4910-9X-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Ex Parte No. 670 (Sub-No. 1)]

#### Notice of Rail Energy Transportation Advisory Committee Meeting

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of Rail Energy Transportation Advisory Committee meeting.

**SUMMARY:** Notice is hereby given of a meeting of the Rail Energy Transportation Advisory Committee (RETAC), pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, as amended (5 U.S.C., App. 2).

**DATES:** The meeting will be held on Tuesday, December 1, 2009, beginning at 9 a.m., E.S.T.

**ADDRESSES:** The meeting will be held in the Commission Meeting Room at the headquarters of the Federal Energy

Regulatory Commission, 888 First Street, NE., Washington, DC 20426 (about 2 blocks from the Union Station stop on Metro's Red Line).

#### FOR FURTHER INFORMATION CONTACT:

Scott M. Zimmerman (202) 245-0202. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** RETAC arose from a proceeding instituted by the Board, in *Establishment of a Rail Energy Transportation Advisory Committee*, STB Ex Parte No. 670.

RETAC was formed to provide advice and guidance to the Board, and to serve as a forum for discussion of emerging issues regarding the transportation by rail of energy resources, particularly, but not necessarily limited to, coal, ethanol, and other biofuels. The purpose of this meeting is to continue discussions regarding issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, carriers, and users of energy resources. Potential agenda items include reports from each of the four RETAC subcommittees (Best Practices, Capacity Planning, Communication, and Performance Measures), a briefing by the Electric Power Research Institute, a forecast update by the Energy Information Administration, a discussion of Federal Energy Regulatory Commission issues, and an open discussion of the state of the energy supply chain in light of current economic conditions.

The meeting, which is open to the public, will be conducted pursuant to RETAC's charter and Board procedures. A photo ID will be required for admission to the building. Further communications about this meeting may be announced through the Board's Web site at <http://www.stb.dot.gov>.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

**Authority:** 49 U.S.C. 721, 49 U.S.C. 11101; 49 U.S.C. 11121.

Decided: November 4, 2009.

By the Board.

**Anne K. Quinlan,**

*Acting Secretary.*

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. E9-26928 Filed 11-6-09; 8:45 am]

**BILLING CODE 4915-01-P**