

Edgar Filing: JOHNS MANVILLE CORP /NEW/ - Form SC TO-T/A

JOHNS MANVILLE CORP /NEW/
Form SC TO-T/A
January 30, 2001

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE TO/A
(RULE 14d-100)

TENDER OFFER STATEMENT UNDER SECTION
14(d) (1) OR 13(e) (1) OF THE SECURITIES EXCHANGE ACT OF 1934

(AMENDMENT NO. 2)

JOHNS MANVILLE CORPORATION
(Name of Subject Company (Issuer))

J ACQUISITION CORPORATION (OFFEROR)
BERKSHIRE HATHAWAY INC. (OFFEROR PARENT)
(Names of Filing Persons (identifying status as offeror, issuer or other
person))

COMMON STOCK, PAR VALUE \$0.01 PER SHARE
(Title of Class of Securities)

478129 10 9
(CUSIP Number of Class of Securities)

MARC D. HAMBURG
VICE PRESIDENT
BERKSHIRE HATHAWAY INC.
1440 KIEWIT PLAZA
OMAHA, NE 68131
TELEPHONE: (402) 346-1400
(Name, address and telephone number of person authorized to receive notices and
communications on behalf of filing persons)

COPY TO:
R. GREGORY MORGAN, ESQ.
MUNGER, TOLLES & OLSON LLP
355 SOUTH GRAND AVENUE
LOS ANGELES, CA 90071
TELEPHONE: (213) 683-9100

CALCULATION OF FILING FEE

TRANSACTION VALUATION*

AMOUNT OF FILING FEE

\$1,724,196,708

\$344,840

* Estimated for purposes of calculating the amount of the filing fee only. The amount assumes the purchase of a total of 132,630,516 shares of the outstanding common stock, par value \$0.01 per share, of the Subject Company ("Subject Company Common Stock") at an offer price of \$13.00 per share. The number of outstanding shares of Subject Company Common Stock has been calculated by subtracting the 4,786,900 shares of Subject Company Common Stock beneficially owned by Offeror Parent from the 137,417,416 shares of Subject Company Common Stock outstanding as of December 28, 2000.

☒ Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: \$344,840.

Form or Registration No.: Schedule TO

Filing Party: Berkshire Hathaway Inc. and J Acquisition Corporation

Date Filed: December 29, 2000

☐ Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

☒ third-party tender offer subject to Rule 14d-1.

☐ issuer tender offer subject to Rule 13e-4.

☐ going-private transaction subject to Rule 13e-3.

☐ amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer: ☐

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This Amendment No. 2 amends and supplements the Tender Offer Statement on Schedule TO filed by J Acquisition Corporation ("Purchaser"), a Delaware corporation, and by Berkshire Hathaway Inc. ("Berkshire"), a Delaware corporation and Purchaser's parent corporation, on December 29, 2000, as amended and supplemented by Amendment No. 1 to Schedule TO, filed by Purchaser and Berkshire on January 16, 2001 (such Schedule TO and such Amendment No. 1 to Schedule TO being collectively referred to herein as the "Schedule TO").

The Schedule TO relates to the offer by Purchaser to purchase any and all of the outstanding shares of common stock, par value \$0.01 per share, of Johns Manville Corporation (the "Company"), a Delaware corporation, at a purchase price of \$13.00 per share, net to the seller in cash, upon the terms and subject to the conditions set forth in the Offer to Purchase (the "Offer to Purchase") and in the related Letter of Transmittal, copies of which are attached to the Schedule TO as Exhibits (a)(1) and (a)(2).

ITEM 4. TERMS OF THE TRANSACTION.

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Item 4 of the Schedule TO is hereby amended and supplemented by including the following information:

Purchaser and Berkshire have extended the Expiration Date of the Offer until 5:00 p.m., New York City time, on February 14, 2001.

ITEM 12. EXHIBITS.

Item 12 of the Schedule TO is hereby amended and supplemented by including the following:

(a) (9) Text of press release issued by Berkshire, dated January 29, 2001.

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SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

J ACQUISITION CORPORATION

By /s/ Marc D. Hamburg

Name: Marc D. Hamburg
Title: President, Secretary and Treasurer

BERKSHIRE HATHAWAY INC.

By /s/ Marc D. Hamburg

Name: Marc D. Hamburg
Title: Vice President and
Chief Financial Officer

Dated: January 29, 2001

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EXHIBIT INDEX

- * (a) (1) Offer to Purchase, dated December 29, 2000.
- * (a) (2) Form of Letter of Transmittal.
- * (a) (3) Form of Notice of Guaranteed Delivery.
- * (a) (4) Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
- * (a) (5) Form of Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.

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* (a) (6) Text of joint press release issued by Berkshire and the Company dated December 20, 2000 (incorporated by reference from the Tender Offer Statement on Schedule TO filed by Berkshire with the Securities and Exchange Commission on December 20, 2000).

* (a) (7) Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9.

* (a) (8) Form of summary advertisement, dated December 29, 2000.

(a) (9) Text of press release issued by Berkshire and the Company, dated January 29, 2001.

* (d) (1) Agreement and Plan of Merger, dated as of December 19, 2000, among Berkshire, Purchaser and the Company (incorporated herein by reference to Exhibit 2.1 of the Current Report on Form 8-K filed by the Company with the Securities and Exchange Commission on December 22, 2000).

* (d) (2) Stockholder Agreement, dated as of December 19, 2000, among Berkshire, Purchaser and the Manville Personal Injury Settlement Trust (incorporated herein by reference to Exhibit 2.3 of the Current Report on Form 8-K filed by the Company with the Securities and Exchange Commission on December 22, 2000).

* (d) (3) Amended and Restated Tax Matters and Amended Trust Relationship Agreement, dated as of December 19, 2000, by and between the Company and the Manville Personal Injury Settlement Trust (incorporated herein by reference to Exhibit 2.2 of the Current Report on Form 8-K filed by the Company with the Securities and Exchange Commission on December 22, 2000).

* (d) (4) Share Purchase Agreement, dated as of December 19, 2000, by and between the Company and the Manville Personal Injury Settlement Trust (incorporated herein by reference to Exhibit 2.4 of the Current Report on Form 8-K filed by the Company with the Securities and Exchange Commission on December 22, 2000).

* (d) (5) Letter Agreement, dated as of December 19, 2000, by and between the Company and the Manville Personal Injury Settlement Trust (incorporated herein by reference to Exhibit 4 to

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Amendment No. 18 to the Schedule 13D filed by the Manville Personal Injury Settlement Trust with the Securities and Exchange Commission on December 22, 2000).

* Previously filed

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