

license to authorize construction and operation of a Low-Enriched Uranium Nitrate Storage Building at the NFS site in Erwin, Tennessee, and to increase the U<sup>235</sup> possession limit. The notice of environmental assessment performed by the staff, finding of no significant impact, and opportunity for a hearing were published in the **Federal Register** on July 9, 2002 (67 FR 45,555).

The Presiding Officer in this proceeding is Administrative Judge Alan S. Rosenthal. Pursuant to the provisions of 10 CFR 2.722, 2.1209, Administrative Judge Richard F. Cole has been appointed to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents, and other materials shall be filed with Judges Rosenthal and Cole in accordance with 10 CFR 2.1203. Their addresses are:

Administrative Judge Alan S. Rosenthal,  
Presiding Officer, Atomic Safety and  
Licensing Board Panel, U.S. Nuclear  
Regulatory Commission, Washington,  
DC 20555-0001;

Administrative Judge Richard F. Cole,  
Special Assistant, Atomic Safety and  
Licensing Board Panel, U.S. Nuclear  
Regulatory Commission, Washington,  
DC 20555-0001.

Issued at Rockville, Maryland, this third day of September, 2002.

**G. Paul Bollwerk III,**

*Chief Administrative Judge, Atomic Safety  
and Licensing Board Panel.*

[FR Doc. 02-22788 Filed 9-6-02; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-338 AND 50-339]

### Virginia Electric and Power Company; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Virginia Electric and Power Company (the licensee) to withdraw its July 18, 2000, application, for proposed amendments to Facility Operating License Nos. NPF-4 and NPF-7 for the North Anna Power Station, Unit Nos. 1 and 2, located in Louisa County, Virginia.

The proposed amendments would have revised the Facility Operating Licenses to delay the implementation of Improved Technical Specifications to no later than December 20, 2002.

The Commission had previously issued a Notice of Consideration of

Issuance of Amendments published in the **Federal Register** on July 25, 2002 (67 FR 48679), and repeated the notice in the **Federal Register** on August 6, 2002 (67 FR 50962). However, by letter dated August 26, 2002, the licensee stated they had implemented ITS on August 20, 2002. As such the proposed amendment is no longer needed.

For further details with respect to this action, see the application for amendments dated July 18, 2002, and the licensee's letter dated August 26, 2002, which withdrew the application for license amendments. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams/html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 30th day of August, 2002.

For the Nuclear Regulatory Commission.

**Stephen R. Monarque,**

*Project Manager, Section 1, Project  
Directorate II, Division of Licensing Project  
Management, Office of Nuclear Reactor  
Regulation.*

[FR Doc. 02-22789 Filed 9-6-02; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27564]

### Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

August 30, 2002.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 24, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After September 24, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

*The Southern Company, et al. (70-9771)*

The Southern Company ("Southern"), 270 Peachtree Street, NW., Atlanta, Georgia 30303, a registered holding company, and its wholly owned subsidiaries, Mobile Energy Services Holdings, Inc. ("Holdings") and Mobile Energy Services Company, L.L.C. ("Mobile Energy")<sup>1</sup> both of 1155 Perimeter Center West, Atlanta, Georgia 30338 (collectively, "Applicants"), have filed an amended and restated application-declaration ("Application") under sections 6(a), 7, 11(f), 11(g), 12(a), 12(b), 12(d), 12(e), 12(f) and rules 44, 45, 54, 62, 63 and 64 of the Act.

The Commission issued an initial notice of the filing of the Application on October 16, 2000 (HCAR No. 27254), which described the First Amended Joint Plan of Reorganization dated September 15, 2000 ("First Plan"). On April 11, 2001 the Commission issued a supplemental notice (HCAR No. 27377) that described the Second Amended Joint Plan of Reorganization dated February 21, 2001 ("Second Plan"). This supplemental notice describes the Third Joint Plan of Reorganization, as Modified ("Third Plan"). The Third Plan supercedes the First Plan and the Second Plan although it contains numerous similarities.

Applicants propose that the Commission issue: (1) An order under section 11(f) of the Act approving the Third Plan and certain related

<sup>1</sup> Mobile Energy is a wholly owned limited liability company subsidiary of Holdings to which Holdings transferred all of its assets other than its equity interest in Mobile Energy in July 1995. Mobile Energy is an electric utility company within the meaning of section 2(a)(3) of the Act.

transactions under the Third Plan;<sup>2</sup> and (2) a report on the Third Plan under section 11(g) to accompany a solicitation of creditors and any other interest holders for approval of the Third Plan in the bankruptcy proceedings.<sup>3</sup> Applicants also seek approval of the ballots and notice of confirmation date and objection deadline which will be sent to creditors entitled to vote on the Third Plan.

### I. Background

The "Industrial Complex" is comprised of the "Energy Complex" (described below), a pulp mill, a paper mill and a tissue mill, all located in Mobile, Alabama. The Scott Paper Company ("Scott") constructed some of the facilities in the early 1960s; additional generation capacity was added in the mid-1980s; and a new recovery boiler was added in 1994. Some of the facilities (*e.g.*, recovery boiler capacity) were financed with Industrial Revenue Bonds issued by the Industrial Development Board ("IDB") of the City of Mobile, Alabama, and leased to Scott Paper. In 1985, the Federal Energy Regulatory Commission ("FERC") determined the then-existing facilities constituted a qualifying cogeneration facility under the Public Utility Regulatory Policies Act of 1978 ("PURPA").<sup>4</sup>

Southern is a registered public-utility holding company that holds the securities, directly or indirectly, of six operating public-utility companies.<sup>5</sup> Southern also holds, directly or indirectly, the securities of energy-related companies, exempt telecommunications companies, exempt wholesale generators and foreign utility companies and authorized intermediate and special purpose subsidiaries. The Southern system provides electric

power in the majority of the states of Alabama and Georgia and portions of Florida and Mississippi, operating centrally dispatched electric power generation transmission and distribution assets. As of December 31, 2001, Southern's consolidated capitalization (including current portions) was \$21 billion, comprised of 36.3% common stock equity, 12.6% preferred stock and preferred securities and 51.1% debt.

On Dec. 13, 1994 the Commission authorized Southern to organize Holdings as a new subsidiary and acquire all of its common stock.<sup>6</sup> Scott sold the energy facilities, black liquor recovery equipment, and related assets, permits and agreements ("Energy Complex")<sup>7</sup> to Holdings. Upon acquisition of the Energy Complex, Holdings entered into three separate 25 year energy services agreements with the owners of each of the pulp, paper and tissue mills within the Industrial Complex under which Holdings would provide power and steam processing services to each of those mills and liquor processing services to the pulp mill. In July 1995, Southern formed Mobile Energy as a limited liability company subsidiary of Holdings. Holdings owns 100% of the equity interest in Mobile Energy. Mobile Energy acquired ownership from Holdings of the Energy Complex on July 14, 1995.

The mill facilities in the Industrial Complex are vast, covering more than 700 acres. The Energy Complex was constructed specifically to serve the Scott mill operations. In late 1995 Scott was merged into a subsidiary of Kimberly Clark Corporation ("KC") and the resulting entity was renamed Kimberly Clark Tissue Company ("KCTC"). As a consequence of the merger, KCTC became Mobile Energy's largest customer, representing approximately 75% of Mobile Energy's revenues in 1998. Of that amount, KCTC's pulp mill accounted for approximately 50% of Mobile Energy's revenues. The pulp mill also provided 85% of the fuel used by the Energy Complex in the form of biomass and black liquor. In 1998 KCTC notified Mobile Energy that KCTC would close its pulp mill and terminate its contract to purchase energy services from Mobile

Energy for the pulp mill effective September 1, 1999.

Mobile Energy owns and operates the Energy Complex. KC owns both the tissue mill and the pulp mill.<sup>8</sup> The paper mill is owned by S.D. Warren Company Alabama, LLC ("S.D. Warren"). Mobile Energy provides power and steam processing services to the mills located in the Industrial Complex and processed certain chemicals that were the by-product of the pulp mill, until the pulp mill ceased producing pulp in September 1999.

The effect of the pulp mill closure was that Mobile Energy's revenues would be significantly reduced while unit costs of electricity produced in the Energy Complex would be increased. The pulp mill closure meant that Mobile Energy's largest purchaser would cease buying energy services and Mobile Energy would lose the related revenue. Further, closure of the pulp mill also altered the demand for steam relative to the demand imposed on the Energy Complex for electricity, with the result that Mobile Energy's cost of electric power generation increased. Closure of the KCTC pulp mill meant that the by-products of pulping operations which had served as a plentiful and inexpensive source of fuel for the Energy Complex (*i.e.*, biomass and black liquor) would no longer be available. The consequences from the anticipated loss of the KCTC pulp mill contract and operations triggered the filing by Mobile Energy and Holdings of cases under Chapter 11 of the Bankruptcy Code.

On January 14, 1999, Mobile Energy and Holdings (collectively, "Debtors") filed voluntary petitions in the United States Bankruptcy Court for the Southern District of Alabama ("Bankruptcy Court") for protection under Chapter 11 of the United States Bankruptcy Code ("Bankruptcy Code"). Both entities filed as debtors in possession continuing their operations; as a result, the Bankruptcy Court has appointed no trustee or receiver.

The Third Plan was filed with the Bankruptcy Court on December 14, 2001 along with the Second Amended Disclosure Statement, as modified. Under section 1125 of the Bankruptcy Code, the Debtors may not solicit votes for acceptances of the Third Plan until the Bankruptcy Court approves a disclosure statement that contains information of a kind, and in sufficient detail, adequate to enable creditors to make an informed judgment whether to

<sup>2</sup> Section 11(f) of the Act provides, in relevant part, that "a reorganization plan for a registered holding company or any subsidiary company thereof shall not become effective unless such plan shall have been approved by the Commission after opportunity for hearing prior to its submission to the court."

<sup>3</sup> Section 11(g)(2) of the Act provides, in relevant part, that any solicitation for consents to or authorization of any reorganization plan of a registered holding company or any subsidiary company thereof shall be "accompanied or preceded by a copy of a report on the plan which shall be made by the Commission after an opportunity for a hearing on the plan and other plans submitted to it, or by an abstract of such report made or approved by the Commission."

<sup>4</sup> *Scott Paper Co.*, 32 FERC (CCH) ¶ 62,175 (1985).

<sup>5</sup> These companies are Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Savannah Electric and Power Company, and Southern Power Company. In addition, Alabama Power Company and Georgia Power Company each own 50% of Southern Electric Generating Company.

<sup>6</sup> HCAR No. 26185.

<sup>7</sup> The Energy Complex is currently comprised of four power boilers, one recovery boiler, four turbine generators, two black liquor evaporator sets, various related waste treatment facilities, fuel and "liquor" storage, station control facilities and associated feedwater systems, air emissions controls, and other auxiliary systems.

<sup>8</sup> In December 2000, KC became the successor to KCTC by assignment. All assets and liabilities of KCTC were assigned to KC on or about December 31, 2000. KCTC was then dissolved.

vote for acceptance or rejection of the plan. A hearing was held with the Bankruptcy Court on December 14, 2001 to determine whether the Second Amended Disclosure Statement as modified meets the requirements of section 1125 of the Bankruptcy Code.

An ad hoc committee of holders of Debtors' tax-exempt bonds and first mortgage bonds established the "Bondholder Steering Committee," which is comprised of certain holders of existing securities as constituted from time to time. Currently the Bondholder Steering Committee is comprised of Credit Suisse First Boston and Morgan Stanley, and Wachovia Bank, National Association, formerly known as First Union National Bank, the indenture trustee for each of the two bond issuances, as an ex officio member. The indenture trustees represent all of the bondholders. The Bondholder Steering Committee supports confirmation of the Third Plan, whose members collectively hold in excess of 70% of the taxable bonds and in excess of 64% of the tax-exempt bonds of Mobile Energy.<sup>9</sup>

The Application includes the Third Plan and the Second Amended Disclosure Statement as Modified for Mobile Energy and Holdings. The Third Plan was precipitated by a number of circumstances. The contemplated reactivation of pulp mill operations, part of the First Plan, did not materialize. A conditional settlement agreement with KC, another part of the First Plan, was rendered void *ab initio* due to the failure of certain conditions precedent. In addition, natural gas prices during the past year reached extremely high levels relative to previous forecasts, which made it difficult to proceed with a planned 165-megawatt cogeneration project ("Cogen Project"), also part of prior plans. In addition, the Third Plan as filed with the Bankruptcy Court on December 14, 2001, contained an election for the bondholders to receive either shares of stock of Holdings, or member interests in Mobile Energy. Which election to make depended on a variety of factors, including whether the Internal Revenue Service would issue a private letter ruling on certain income tax matters. The Internal Revenue Service declined to issue any ruling on the matter so the Debtors and the bondholders have decided not to pursue a plan with the election to receive member interests in

<sup>9</sup> On February 4, 1999, an official committee on unsecured creditors was appointed in the Chapter 11 cases ("Committee"). The Committee has not sought Bankruptcy Court approval to retain counsel or any other professionals to represent its interests. The Committee has not been actively involved in the Bankruptcy cases.

Mobile Energy. Consequently, the Third Plan as modified, provides that the bondholders will receive shares of stock of Holdings without an election provision. As a result, Applicants state, the Third Plan is very similar to the Second Plan.

Applicants state the purposes of the transactions described in the Third Plan are to: (1) Permit Mobile Energy and Holdings to reorganize and emerge from bankruptcy; (2) maximize the recovery of Mobile Energy's bondholders on their capital investment; (3) eliminate the direct and indirect equity ownership of Southern in Mobile Energy and Holdings; and (4) allow Mobile Energy to operate as a qualifying facility ("QF") under PURPA after the effective date of the Third Plan, which will cause Mobile Energy and Holdings to no longer be subject to the Act. Certain transactions contemplated by the Third Plan require Commission authorization. The jurisdictional aspects of the Third Plan are summarized below.

## II. The Third Plan

### A. Overview

Applicants request authorization for the solicitation regarding the Third Plan under sections 11(f) and 11(g) of the Act, and authorization under section 12(e) to solicit consents and approvals from the holders of the securities of Mobile Energy and Holdings, along with other ancillary and related authorizations to implement the Third Plan.<sup>10</sup>

Under the Third Plan, Southern's equity interests in Mobile Energy will be extinguished and the bondholders will become the exclusive equity interest holders in reorganized Mobile Energy. The allowed claims of non-insider creditors aside from the bondholders will be paid in full or reinstated. The claims of insiders of the Debtors are treated by agreement as set forth in the Third Plan.

Mirant Services L.L.C. ("Mirant Services"), previously known as Southern Energy Resources, Inc., was the operator of the Energy Complex through March 31, 2001. Following a solicitation process, Mobile Energy selected Operational Energy Corporation ("OEC"), an affiliate of Enron, as the operation and maintenance operator after March 31, 2001, pending confirmation of the Third Plan. OEC

<sup>10</sup> The materials to be included in the solicitation include the Third Plan, the Second Amended Disclosure Statement as Modified and exhibits, the ballots and notice of confirmation hearing.

replaced Mirant Services and implemented cost reductions.<sup>11</sup>

The Third Plan focuses upon maintaining and furthering operating cost reductions in the context of continuing to provide services to those mills presently operating in the Industrial Complex, KC's tissue mill and the pulp mill. KC has demolished the pulp mill. However, KC continues to operate components of the pulp mill and these pulp mill legacy assets continue to use the services provided by Mobile Energy under the "Pulp Mill Energy Services Agreement." S.D. Warren closed the paper mill on December 14, 2001.

In order to assess the merits of the business strategy incorporated in the Third Plan projections have been prepared. The projections reflect S.D. Warren's closure of the paper mill and presume that KC curtails tissue mill operations as suggested to the Debtors by KC representatives.<sup>12</sup> Applicants note the projections show positive cash flows and thus value to the bondholders, who will be the future owners of equity interests in Holdings under the Third Plan. Applicants further note the projections also show greater value to the bondholders under the Third Plan than they would receive in liquidation.

Under the projections, Mobile Energy estimates that it will provide approximately 1.1 million MMBtus of steam to the tissue mill during 2002 and approximately 932,000 MMBtus of steam thereafter. Applicants anticipate that Mobile Energy will provide approximately 341,000 megawatt hours of electricity in 2002 to the tissue mill and approximately 400,000 megawatt hours of electricity thereafter. The estimated usage for steam and power for 2003 and later years is approximately 55% and 124%, respectively, of the amount of steam and power provided to the tissue mill during 1998. Applicants

<sup>11</sup> OEC filed for bankruptcy in December 2001, as did Enron Corp. and other affiliates of OEC. OEC continues to operate the Energy Complex in accordance with an operating agreement between it and Mobile Energy. As a debtor under Chapter 11 of the Bankruptcy Code, OEC could elect to reject the operating agreement between it and Mobile Energy. Applicants state that the management of Mobile Energy understands that risk and believes that in such event it could replace OEC with a new operator that would perform the same functions as OEC, and that there would be no interruption in services to Mobile Energy's customers.

<sup>12</sup> A KC representative signed an affidavit stating the anticipated future level of steam and power processing services that the tissue mill would require. Mobile Energy used those levels in the projections. However, KC currently is exceeding the levels stated in the affidavit. Applicants state, to be conservative, Mobile Energy continues to use the lower levels of contemplated services in the projections.

further state that Mobile Energy intends to continue to sell electricity in excess of the mill owners' demands during peak periods into the wholesale market; an estimate of these additional revenues is also included in the projections.

The Third Plan contemplates that after Southern is divested of its ownership of Mobile Energy, Mobile Energy will qualify as a QF under PURPA, rendering it not a public-utility under the Act.<sup>13</sup> Applicants state the effect of Southern's disaffiliation with the Debtors is beneficial to Southern because Southern has written off its investment in the Debtors for financial accounting purposes and it removes a drain on Southern's management's time and attention. Applicants state that Southern will have substantially reduced obligations going forward with respect to Mobile Energy and Holdings.

#### B. The Cogeneration Development Agreement

In February 2000, the Debtors, Mirant Services and Mirant Corporation ("Mirant"), entered into the "Cogeneration Development Agreement." The Debtors contemplated the development by Mobile Energy of the Cogen Project, a 165-megawatt gas fired cogeneration facility within the Industrial Complex. Mirant committed to provide to Mobile Energy a General Electric combustion turbine ("GE Combustion Turbine") in exchange for certain payments and also committed to contribute equity to the Cogen Project. Mirant Services was to be the operator of the Cogen Project.

For several reasons, including a dramatic rise in long-term natural gas prices that negatively affected the economics of the Cogen Project, the Cogeneration Development Agreement was amended twice. On May 16, 2001, the Bankruptcy Court approved the second amendment, "CDA No. 2." As a result of CDA No. 2, the Debtors received a net amount of \$5.0 million in cash in exchange for the relinquishment to certain contract rights, such as, the Debtors' rights to the GE Combustion Turbine that was to be contributed by Mirant. The practical effect of CDA No. 2 is that the Cogen Project will not be developed by Mobile Energy under the Third Plan. Because the Cogen

Project will not go forward, the projections do not assume any revenues to be received from the Cogen Project. However, certain provisions of the Cogeneration Development Agreement remain in effect.

Under the Cogeneration Development Agreement, Applicants state, Southern, Mirant and Mirant Services had only limited ongoing obligations to the Debtors. Southern's existing obligations to the owners of the tissue mill, paper mill, and pulp mill under the Environmental Guaranty entered into in December 1994 and the Mill Owner Maintenance Reserve Account Agreement entered into in August 1995 are to continue. Mobile Energy agreed in the Cogeneration Development Agreement to compensate and indemnify Southern for any costs it incurred under either agreement. That compensation obligation is secured by a priority lien on Mobile Energy's assets. The indemnities in favor of Southern, Mirant and Mirant Services continue in effect under CDA No. 2. Applicants state that the amounts, if any, that may be owed to Southern, Mirant or Mirant Services under the surviving indemnities are not capable of being quantified at this time. Applicants state that the Debtors' management is unaware of any current obligations under the underlying agreements, and in any event, does not believe the Debtors' future obligations under the indemnities will have a materially adverse effect on the Debtors' future business operations.

Under the Cogeneration Development Agreement, Mobile Energy and Holdings agreed to indemnify Southern from any taxes imposed on Southern attributable to any net taxable income recognized by Mobile Energy or Holdings which exceed Southern's excess loss account balance with respect to its stock investment in Holdings. This compensation obligation is limited to the tax owed on income equal to the amount of the excess loss account prior to it being triggered. The maximum Southern obligation concerning the excess loss account can be estimated, recognizing that the balance fluctuates periodically, depending upon, *inter alia*, the results of operations of Mobile Energy and Holdings. As of December 31, 2001 the excess loss account approximated \$82.8 million. The federal statutory corporate income tax rate is 35%; therefore, under these circumstances, Applicants state that Southern's maximum potential exposure could approximate \$29 million.

#### C. Treatment of Claims Under the Third Plan

The bondholders under the Third Plan will receive shares in reorganized Holdings ("New Common Stock").

##### 1. Unsecured Creditors; Others

Under the Third Plan, the claims of the general unsecured creditors and the claims of all other creditors, except Southern, Mirant, Mirant Services and the bondholders, will be paid in full. The claims of unsecured creditors are approximately \$431,000 without consideration of proof of claims (some of which claims have not been quantified by the claimants) from the mill owners against the Debtors. Debtors are contesting the mill owners' proof of claims.

##### 2. First Mortgage Bonds

Mobile Energy issued the first mortgage bonds on August 1, 1995, in the principal amount of \$255,210,000 due January 1, 2017 and bearing annual interest at 8.665%. Each holder of a First Mortgage Bondholder Claim shall receive in complete settlement, satisfaction and discharge of their First Mortgage Bondholder Claims, a *pro rata* share of 72.594% of the New Common Stock of Holdings.

##### 3. Tax Exempt Bonds

In December 1983, the IDB issued tax-exempt bonds ("1983 Tax-Exempt Bonds") to finance the construction of the No. 7 Power Boiler and certain auxiliary systems. In December 1984 ("1984 Tax-Exempt Bonds"), the IDB issued tax-exempt bonds to refund the 1983 Tax-Exempt Bonds.

Refunding of the 1984 Tax-Exempt Bonds occurred in 1995 by means of tax-exempt bonds in the original principal amount of \$85,000,000 scheduled to mature January 1, 2020 ("Tax-Exempt Bonds"). Under the Third Plan, each holder of a Tax-Exempt Bondholder Claim shall receive in complete settlement, satisfaction and discharge of their Tax-Exempt Bondholder Claims, (1) a *pro rata* share of 27.406% of the New Common Stock of Holdings, and (2) these holders shall retain a *pro rata* share of \$1 million of their outstanding Tax-Exempt Bonds.

##### 4. Southern's, Mirant's and Mirant Services' Claims

Under the Third Plan, Southern, Mirant and Mirant Services will receive the treatment provided in the Cogeneration Development Agreement, as amended, in full satisfaction of their claims. Generally, Southern's claims receive one of two different types of treatment in the Third Plan. The

<sup>13</sup> Mobile Energy previously filed an application with the FERC seeking certification as a QF as of the effective date of the First Plan; however, the configuration presumed in the original application has been superseded by the configuration that serves as the basis for the Third Plan. Applicants state an appropriate application will be made to seek qualification of assets of reorganized Mobile Energy that satisfy pertinent regulatory tests as a QF consistent with the business plan that forms the basis of the Third Plan.

estimated recovery for Southern's pre-petition claims is approximately 0.3%.<sup>14</sup> Southern's post-petition claims will receive 100% payment under the Third Plan.

### III. Post Reorganization Ownership Structure

On the effective date of the Third Plan, Southern's interest in Holdings shall be cancelled and extinguished. As a consequence, Southern's pre-petition shares in Holdings would no longer have any claim to voting rights, dividends or in fact any rights with respect to Holdings. Neither Southern nor any of its affiliates would hold any interest of any kind in either Holdings or Mobile Energy. The existing bondholders will hold the New Common Stock, which will constitute the entire equity interest in the reorganized Holdings. Holdings will continue to own 100% of the equity ownership of Mobile Energy.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-22768 Filed 9-6-02; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Issuer Delisting; Notice of Application to Withdraw from Listing and Registration on the Boston Stock Exchange; (Stratus Services Group, Inc., Common Stock, \$.01 par value) File No. 1-15789

September 3, 2002.

Stratus Services Group, Inc., a Delaware corporation ("Issuer"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 12d2-2(d) thereunder,<sup>2</sup> to withdraw its Common Stock, \$.01 par value ("Security"), from

listing and registration on the Boston Stock Exchange ("BSE").

The Issuer stated in its application that it has complied with all applicable laws in effect in the State of Delaware, in which it is incorporated, and with the BSE's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

In making the decision to withdraw the Security from listing on the Exchange, the Board of Directors of the Issuer determined that the continuing costs of maintaining the Security's listing on the BSE outweighed the benefits of listing. The Issuer represents that the Security is quoted on the OTC Bulletin Board. The Issuer's application relates solely to the Security's withdrawal from listing on the BSE and from registration under section 12(b) of the Act<sup>3</sup> and shall not affect its obligation to be registered under section 12(g) of the Act.<sup>4</sup> Any interested person may, on or before September 24, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 02-22767 Filed 9-6-02; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-25724]

### Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

August 30, 2002.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of August, 2002. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW.,

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

<sup>4</sup> 15 U.S.C. 78(g).

<sup>5</sup> 17 CFR 200.30-3(a)(1).

Washington, DC 20549-0102 (tel. 202-942-8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 24, 2002, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549-0609.

### FOR FURTHER INFORMATION CONTACT:

Diane L. Titus at (202) 942-0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549-0506.

### CDC Kobrick Investment Trust [File No. 811-8435]

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On November 16, 2001, each series of applicant transferred its assets to a corresponding series of CDC NVEST Funds Trust I, based on net asset value. Expenses of \$632,656 incurred in connection with the reorganization were paid by Kobrick Funds LLC and CDC IXIS Asset Management North America, L.P., applicant's investment advisers.

*Filing Dates:* The application was filed on July 25, 2002, and amended on August 20, 2002.

*Applicant's Address:* CDC IXIS Asset Management Services, Inc., 399 Boylston St., Boston, MA 02116.

### Merrill Lynch Premier Growth Fund, Inc. [File No. 811-9653]

### Master Premier Growth Trust [File No. 811-9733]

*Summary:* Applicants, a feeder fund and a master fund, respectively, in a master-feeder structure, seek an order declaring that each has ceased to be an investment company. On May 20, 2002, applicants transferred their assets to Merrill Lynch Large Cap Growth Fund, a series of Merrill Lynch Large Cap Series Funds, Inc., based on net asset value. Expenses of \$235,933 incurred in connection with the reorganization will be paid by the surviving fund.

<sup>14</sup> As a reflection of that level of recovery, Southern recorded an expense of approximately \$69 million in the third quarter of 1999 to write down its equity investment in Holdings to zero. An additional expense of approximately \$10 million was recorded in the third quarter of 2000 to reflect additional liabilities under the Cogeneration Development Agreement, as amended by Amendment No. 1. Applicants state no further material impact on Southern's consolidated capitalization is expected as a result of the implementation of the Third Plan.

<sup>1</sup> 15 U.S.C. 78(d).

<sup>2</sup> 17 CFR 240.12d2-2(d).