

distribution would take place, including any information available with regard to the amount of that distribution and the date it would be paid. Finally, a specified time period in which a general partner or transfer agent must respond to a transfer request should be indicated on the form.

In response to the comments above, the NASD added changes to the Registration Confirmation Form. The first sentence of the first full paragraph on the form was changed to state, "Your transfer request has been processed. The effective date or admission date as a limited partner in the partnership is indicated below." In addition, the portion of the form which asks for the date of admission to the partnership has been changed to state "Effective/ Admission Date." Finally, space was provided at the bottom of the form to indicate an address for distributions if different than the address of record.

#### *Distribution Affirmation Form*

Four commenters responded to the request for comment in NTM 94-75 on whether a dividend distribution affirmation/agreement should be used in conjunction with the proposed transfer forms or should be optional. One commenter requested that the affirmation requirement be optional. Another commenter believes that the affirmation that a seller gives up all distributions not yet declared or paid can only work if issuers will uniformly adopt such practices. The same commenter added that the agreement by a member with a seller to such a contractual term, followed by the issuer not honoring such term, creates a legal conflict and a contractual term which becomes pragmatically unenforceable. The commenter concluded that the affirmation should only be included if the issuer will uniformly agree to it.

One commenter stated that while it is important to include distribution allocation language to the proposed documentation, it would also be important to include language with respect to tax allocations to facilitate investors understanding as to whether they will or will not be allocated gains or losses for tax purposes.

Another commenter stated that distribution procedures were so important that they should be standardized in the industry and a statement should be included on the form for the seller to affirm that it agrees to give up any undeclared or unpaid distributions.

In response to the comments above, the NASD has developed a proposed distribution allocation agreement that would be executed by the parties at the

time the transfer documents are completed and sent to the general partner of the limited partnership security being transferred. The agreement contains certain affirmations on which the transferor and transferee agree and would act as a contract between the buyer and seller setting forth their agreement regarding all unpaid distributions. The agreement specifies when the transferee becomes the unitholder of record, when a unitholder of a record is entitled to cash distributions and capital distributions, and who is responsible for correcting a distribution made to the wrong party. The agreement requires, among other things, the party who incorrectly receives a distribution to promptly endorse and deliver to the correct party the distribution checks or otherwise pay to the other party the amount of such distribution. Thus, the distribution allocation agreement, which incorporates this information, would evidence the parties' agreement as to the treatment of distributions and make it clear that they have agreed to all material terms of the transaction.

As mentioned above, while it is true that the NASD cannot compel non-member DPP issuers to use the proposed forms, major DPP issuers, working in conjunction with the NASD's Direct Participation Program Committee and the special Ad Hoc Committee on Uniform Settlement and Transfer Procedures for Direct Participation Program Securities, have had an opportunity for input into the development of the agreement. The NASD believes that issuers will uniformly use the proposed agreement in conjunction with the proposed transfer forms.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-95-53 and should be submitted by January 18, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 95-31356 Filed 12-27-95; 8:45 am]

BILLING CODE 8010-01-M

#### **Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Excel Industries, Inc., Common Stock, No Par Value) File No. 1-8684**

December 20, 1995.

Excel Industries, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged for striking the Security from listing and registration include the following:

According to the Company, trading in the Security on the New York Stock Exchange, Inc. commenced at the opening of business on December 12, 1995 and, concurrently therewith, trading on the Amex was suspended. At its October 19, 1995 meeting, the Company's Board of Directors considered the direct and indirect costs and expenses attendant with maintaining a dual listing of the Security. The Board determined that there was no particular advantage in the

<sup>9</sup> 17 CFR 200.30-3(a)(12).

dual trading of the Security and that a dual listing would fragment the market for the Security.

Any interested person may, on or before January 10, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Amex 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.

Jonathan G. Katz,  
Secretary.

[FR Doc. 95-31357 Filed 12-27-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-26436]

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

December 22, 1995.

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 thereunder. 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 amendments thereto is/are available for public inspection through the Commission's Office 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 January 11, 1996, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, 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 case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact 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 said date, the application(s) and/or declaration(s), as filed or as amended,

may be granted and/or permitted to become effective.

General Public Utilities Corporation, et al. (70-8593)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company ("GPU"), GPU Service Corporation ("GPUSC"), 100 Interpace Parkway, Parsippany, New Jersey 07054, Energy Initiatives, Inc. ("EII"), One Upper Pond Road, Parsippany, New Jersey 07054, Energy Services, Inc. ("ESI"), One Upper Pond Road, Parsippany, New Jersey 07054, each a wholly owned nonutility subsidiary of GPU, and GPU's utility subsidiaries, Jersey Central Power & Light Company, 300 Madison Avenue, Morristown, New Jersey 07960, Metropolitan Edison Company, P.O. Box 16001, Reading, Pennsylvania 19640, and Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907 ("Operating Companies"), have filed a post-effective amendment under sections 6(a), 7, 9(a), 10, 12(b), 32 and 33 of the Act and rules 45, 52, 53 and 54 thereunder.

By order dated July 6, 1995 (HCAR No. 26326) (the "Order"), the Commission authorized GPU to acquire indirectly the securities of one or more foreign utility companies ("FUCOs") and exempt wholesale generators ("EWGs") (each, an "Exempt entity") through subsidiary companies which are not themselves Exempt Entities (each, a "Subsidiary Company"). Each Subsidiary Company would be engaged directly or indirectly, and exclusively, in the business of owning and holding the interests and securities of one or more Exempt Entities and in project development activities relating to the acquisition of such securities and the underlying projects.

The Order stated that equity investments in the Subsidiary Companies could take the form of capital stock or shares, trust certificates, partnership interests or other equity or participation interests.

The Order also authorized GPU to make investments in one or more Subsidiary Companies from time to time through December 31, 1997 in an aggregate amount of up to \$200 million. Such investments could take the form of cash capital contributions or open account advances; loans evidenced by promissory notes; guarantees by GPU or the principal of, or interest on, any promissory notes or other evidences of indebtedness or obligations of any Subsidiary Company, or of GPU's undertaking to contribute equity to a Subsidiary Company; assumption of

liabilities of a Subsidiary Company; and reimbursement agreements with banks entered into to support letters of credit delivered as security for GPU's equity contribution obligation to a Subsidiary Company or otherwise in connection with a Subsidiary Company's project development activities.

In addition to the above-described investments in Subsidiary Companies, the Order authorized GPU to make investments in Exempt Entities from time to time through December 31, 1997. Such investments could take the form of (i) guarantees of the indebtedness or other obligations of one or more Exempt Entities; (ii) assumption of liabilities of one or more Exempt Entities; and (iii) guarantees and letter of credit reimbursement agreements in support of equity contribution obligations or otherwise in connection with project development activities for one or more Exempt Entities.

The aggregate amount of such guarantees, assumptions and reimbursement agreements entered into with respect to Exempt Entities, together with the amount invested in Subsidiary Companies, would not exceed \$200 million in the aggregate outstanding at any one time ("Investment Cap").

GPU now proposes to increase the Investment Cap, which would include all forms of equity or participation interests, to 50% of GPU's consolidated retained earnings at the time any investment in a Subsidiary Company or Exempt Entity is made. GPU states that, under new rules 45(b)(4) and 52, open account advances without interest are not subject to the limit of the Investment Cap, nor are cash capital contributions to Subsidiary Companies to the extent they are not made in connection with the acquisition of a new subsidiary.

The Subsidiary Companies propose to provide services and goods to associate Subsidiary Companies and associate Exempt Entities at fair market prices. GPU requests an exemption pursuant to section 13(b) of the Act from the requirements of rules 90 and 91 applicable to such transactions in any case in which one or more of the following circumstances are present:

a. Such associate is a FUCO or an EWG which derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale within the United States;

b. Such associate is an EWG which sells electricity at market-based rates which have been approved by the FERC or the appropriate State Public Utility Commission, provided the purchaser of such electricity is not an associate of GPU;