

SMF ENERGY CORP
Form 10-K
September 28, 2007

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended: **June 30, 2007**

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number: **0-21825**

SMF ENERGY CORPORATION
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

65-0707824
(I.R.S. Employer Identification No.)

200 West Cypress Creek Road, Suite 400, Fort Lauderdale, Florida 33309
(Address of principal executive offices) (Zip Code)

(954) 308-4200
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of Class
Common Stock, \$.01 Par Value

Name of exchange on which registered
Nasdaq Capital Market

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.
Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes No

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Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (Section 229.405 of this Chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, accelerated filer or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act).

Large accelerated filer

Accelerated filer

Non-accelerated filer

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act).

Yes No

The aggregate market value of the voting stock held by non-affiliates was \$12,902,203. The aggregate market value was computed by reference to the last sale price of the registrant's Common Stock on the Nasdaq Capital Market on December 31, 2006.

As of September 24, 2007 there were 14,556,295 shares of the Registrant's Common Stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE:

Certain Portions of Registrant's Proxy Statement relating to the 2007 Annual Meeting of Shareholders are incorporated by reference into Part III.

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

From time to time we make statements concerning our expectations, beliefs, plans, objectives, goals, strategies, future events or performance and underlying assumptions and other statements that are not historical facts. These statements are "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements include statements concerning our expectations, plans, objectives, goals, strategies, future events, future revenue or performance, capital expenditures, financing needs, plans or intentions relating to acquisitions, business trends and other information that is not historical information and, in particular, appear under the headings "Management's Discussion and Analysis of Financial Condition and Results of Operations." The words "could," "estimate," "expect," "anticipate," "project," "plan," "intend," "believe," "goal," "forecast" and variations of such words or similar expressions are intended to identify forward-looking statements. All forward-looking statements, including, without limitation, management's examination of historical operating trends, are based upon our current expectations and various assumptions. Our expectations, beliefs and projections are expressed in good faith and we believe there is a reasonable basis for them. However, there can be no assurance that our expectations, beliefs and projections will result or be achieved.

There may also be factors that are not presently known to us or that we currently consider to be immaterial that may cause our actual results to differ materially from the forward-looking statements. Some of the risks and uncertainties that could cause our actual results to differ materially from the forward-looking statements are described in the section entitled "Risk Factors" (Item 1A) and elsewhere in this Annual Report on Form 10-K. All forward-looking statements and projections attributable to us or persons acting on our behalf apply only as of the date of the particular statement, and are expressly qualified in their entirety by the cautionary statements included in this report and our other filings with the SEC. We undertake no obligation to publicly update or revise forward-looking statements, including any of the projections presented herein, to reflect events or circumstances after the date made or to reflect the occurrence of unanticipated events.

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PART I

Item 1. Business

Overview

We were originally incorporated in Florida in 1996, under the name Streicher Mobile Fueling, Inc. (“Streicher”). SMF Energy Corporation (the “Company”), a Delaware corporation, was formed in 2006 as a wholly-owned subsidiary of Streicher. In December 2006, the shareholders of Streicher approved changing the name of Streicher to SMF Energy Corporation and the reincorporation of Streicher in Delaware. These actions were effectuated on February 14, 2007 by the merger of Streicher into the Company. Unless indicated otherwise, “the Company”, “SMF,” “we”, “us” and “our” refer to SMF Energy Corporation and its subsidiaries.

We are a leading provider of petroleum product distribution services, transportation logistics and emergency response services to the trucking, manufacturing, construction, shipping, utility, energy, chemical, telecommunication and government services industries. We provide our services and products through 26 locations in the ten states of Alabama, California, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas.

The broad range of services we offer our customers includes commercial mobile and bulk fueling; the packaging, distribution and sale of lubricants; integrated out-sourced fuel management; transportation logistics and emergency response services. Our fleet of custom specialized tank wagons, tractor-trailer transports, box trucks and customized flatbed vehicles delivers diesel fuel and gasoline to customers’ locations on a regularly scheduled or as needed basis, refueling vehicles and equipment, re-supplying fixed-site and temporary bulk storage tanks, and emergency power generation systems; and distributes a wide variety of specialized petroleum products, lubricants and chemicals to our customers. In addition, our fleet of special duty tractor-trailer units provides heavy haul transportation services over short and long distances to customers requiring the movement of over-sized or over-weight equipment and manufactured products.

Acquisitions

As part of our overall business strategy, we are pursuing growth through the acquisition of other companies and operations that offer services similar or complementary to ours. Through such acquisitions, we are expanding our services and products, enabling us to grow our margins and to position ourselves for profitable financial performance by consolidating operations and improving efficiencies.

As further discussed below, we completed two acquisitions during 2005. These acquisitions made us a leading distributor of both packaged and bulk branded lubricants and of other unbranded petroleum products and chemicals. They also expanded our commercial mobile and bulk fueling operations and strengthened our ability to provide emergency service and fuel delivery services in response to natural disasters, such as hurricanes, tropical storms, ice and snow storms, forest fires and earthquakes and other emergency situations.

Shank Services

In February 2005 we purchased substantially all of the assets and business operations of Shank C&E Investments, L.L.C. (“Shank Services”) a Houston, Texas based provider of commercial mobile and bulk fueling services, petroleum lubricants packaging and distribution, and heavy haul transportation services. We paid \$6.4 million for Shank Services, comprised of \$5.8 million in cash and \$0.6 million in acquisition costs. We also delivered an additional \$1.9 million in the form of a contingent two-year deferred payment promissory note that was subject to Shank Services meeting a specific target performance objective, but the objective was not met and the note was not due or paid.

The Shank Services acquisition significantly extended our presence in the major Texas markets of Houston, Dallas/Fort Worth, Austin and San Antonio and provides a platform for further growth in the Southwest. This acquisition allowed us to enhance our product and service offerings by expanding into the sale and distribution of lubricants and related petroleum products. It also increased our related bulk commercial operations and emergency generator fueling services. Since Shank Services was experienced in delivering emergency response fueling services in disaster relief situations, the acquisition also increased our capability to provide this service regionally and nationally.

H & W

In October 2005 we acquired H & W Petroleum Company, Inc. ("H & W"), a Houston based marketer and distributor of lubricants, commercial fuels and petroleum products. Immediately prior to our acquisition of H & W, H & W acquired the operating assets of Harkrider Distributing Company, Incorporated ("Harkrider"), a Houston based marketer and distributor of dry cleaning solvents, chemicals and petroleum products. We agreed to pay \$5.9 million, which included the combination of cash, the assumption of specified liabilities and the issuance of two year 10% promissory notes totaling \$2.5 million. The promissory note is subject to an earn out provision based on the performance of H & W and Harkrider for the period of December 31, 2005 through December 31, 2007.

The H & W acquisition has enabled us to expand our services of marketing and distributing branded and non-branded lubricants, fuels and other petroleum products in Texas, together with adding the marketing and distributing dry cleaning solvents and chemicals.

H & W provides service to the Houston, Beaumont, Dallas/Fort Worth, Freeport, Longview, Lufkin, San Antonio, Waco/Temple and Waxahachie markets in Texas, and the Baton Rouge/New Orleans market in Louisiana.

The prior operations of Shank Services, together with the historical operations of Streicher in the Texas markets, have now been integrated into the operations of H & W Petroleum Company.

Strategy

An objective of our business model is to become the leading "single source" provider of petroleum products and services in the ten states in which we presently have operating locations, as well as expanding into additional markets in the Southeast, Mid-Atlantic, Mid-Continent and West Coast regions of the U.S. We seek to offer our customers a diversified package of quality and reliable petroleum products and service with 24 hour around the clock availability at competitive prices. To achieve this objective we plan to grow organically and through selective acquisitions.

Our organic growth strategy is focused on increasing market share in our existing operating locations and contiguous geographic areas. We seek market share expansion through a concentrated market penetration and sales program offering a broader line of products and services to both existing and prospective customers. We believe that the implementation of our corporate infrastructure capability, including the newly installed Enterprise Resource Planning ("ERP") operating systems should enable us to operate more efficiently and to reduce operating costs and administrative expenses. This new system will facilitate more efficient integration of new acquisitions, consolidation of financial management reporting and analysis functions, improvement of management controls, and will help us meet the compliance requirements of the Sarbanes-Oxley Act of 2002 when it becomes applicable to us. Additionally, as we continue to emphasize our ability to serve more lubricants customers, we believe we will gain market share and recognition as the supplier of choice based on dependability, technical knowledge and price acceptability.

We are seeking strategic acquisitions to broaden our existing operations. Our acquisition strategy, as evidenced by our acquisitions of Shank Services and H & W, is focused on acquiring companies, assets and business operations which will compliment or offer diversified opportunities for us to grow in the markets where we already have an established

presence or that permit us to expand into new markets. We believe that carefully selected future acquisitions can provide us with increased market share, volume and margins. In addition, such acquisitions can enhance our operational and administrative efficiencies by helping us reach economies of scale. We evaluate our potential acquisitions based of factors such as:

market presence;

· growth potential of product and service lines;
· margin contribution;
· impact on our competition;
· customer loyalty and retention;
· commitment of management and other personnel;
· integration efficiencies and controls; and
· transaction financing alternatives, among others.

We expect to fund future acquisitions primarily by raising additional capital. This capital may be in the form of equity, debt or a combination of both. While we expect to be able to satisfy these capital requirements, there is no assurance that we will be able to do so, and any such failure will necessarily impede the implementation of our growth strategy.

Products, Services and Operations

Commercial Mobile and Bulk Fueling and Fuel Management Services

We provide commercial mobile and bulk fueling deliveries on a regularly scheduled or as needed basis, refueling vehicles and equipment, and re-supplying bulk storage tanks and emergency power generation systems.

Traditionally, businesses and other entities that operate fleets of vehicles and equipment have met their fueling requirements by fueling vehicles at retail stations or at other third party facilities or by maintaining their own supply of fuel in on-site storage tanks. We believe that the commercial mobile fueling and out-sourced fuel management services we offer provide numerous benefits to our customers, including lower labor and administrative costs associated with fueling vehicles, centralized control and management over fuel inventories, data useful for management and tax reporting, elimination of environmental risks and related costs associated with on-site fuel storage and dispensing facilities, and elimination of security risks associated with off-site fueling by employees. Our commercial mobile fueling solutions include the use of our patented proprietary electronic fuel tracking control system to measure, record and track fuel dispensed to each vehicle and tank fueled at a customer location. This system allows verification of the amount and type of fuel delivered and provides customers with customized fleet fuel data. Depending on the customer application, the benefits of our commercial mobile fueling and out-sourced fuel management services over traditional fueling methods may include:

· *Reduced Operating Costs and Increased Labor Productivity.* Fleet operators are able to reduce operating costs and lower payroll hours by eliminating the need for their employees to fuel vehicles either on-site or at local retail stations and other third party facilities. Overnight fueling prepares fleet vehicles for operation at the beginning of each workday and increases labor productivity by allowing employees to use their vehicles during time that would otherwise be spent fueling. Vehicle use is maximized since fueling is conducted during non-operating hours. The fuel necessary to operate vehicles is reduced since fueling takes place at customer locations. The administrative burden required to manage fuel programs and monitor vehicle utilization is also reduced.

- *Centralized Inventory Control and Management.* Our fuel management system provides fleet operators with a central management data source. Web-based comprehensive reports detail, among other things, the location, description, fuel type and daily and weekly fuel consumption of each vehicle or piece of equipment that we fuel. This eliminates customers' need to invest working capital to carry fuel supplies and allows customers to centralize fuel inventory controls as well as track and analyze vehicle movements and fuel consumption for management and fuel tax reporting purposes. We are also able to service and manage fuel delivery to a customer's on-site storage tank, and using our technology we can provide reports detailing fuel dispensed from the tank into each of the customer's vehicles. Our system is specifically designed for use in commercial fueling and is certified for accuracy by The National Conference on Weights and Measures.
- *Tax Reporting Benefits.* Our fuel management system can track fuel consumption to specific vehicles and fuel tanks, providing tax reporting benefits to customers consuming fuel in uses that are tax-exempt, such as for off-road vehicles, government-owned vehicles and fuel used to operate refrigerator units on vehicles. For these uses, the customers receive reports that provide them with the information required to substantiate tax exemptions.
- *Elimination of Expenses and Liabilities of On-site Storage.* Fleet operators who previously satisfied their fuel requirements using on-site storage tanks can eliminate the capital and costs relating to installing, equipping and maintaining fuel storage and dispensing facilities, including the cost and price volatility associated with fuel inventories; complying with escalating environmental government regulations; and carrying increasingly expensive insurance. By removing on-site storage tanks and relying on commercial mobile fueling, customers are able to avoid potential liabilities related to both employees and equipment in connection with fuel storage and handling. Customers' expensive and inefficient use of business space and the diminution of property values associated with environmental concerns are also eliminated.
- *Lower Risk of Fuel Theft.* Fleet operators relying on employees to fuel vehicles, whether at on-site facilities or at retail stations, often experience shrinkage of fuel inventories or excess fuel purchases due to employee fraud. Our fuel management system prevents the risk of employee theft by dispensing fuel only to authorized vehicles. Utilizing our fueling services, rather than allowing employees to purchase fuel at local retail stations, also eliminates employee fraud due to credit card abuse.
- *Access to Emergency Fuel Supplies and Security.* Emergency preparedness, including fuel availability, is critical to the operation of governmental agencies, utilities, communication companies, delivery services and numerous other fleet operators. We provide access to emergency fuel supplies at times and locations chosen by our customers, allowing them to react more quickly and effectively to emergency situations, such as severe weather conditions and related disasters. Fueling by fleet operators at their own on-site storage facilities, and/or at retail and other third party locations may be limited due to power interruptions, supply outages or access and other natural limitations. In addition, since security concerns of fleet operators to terrorism, hijacking and sabotage are increasing, fueling vehicles at customers' facilities eliminates security risks to the fleet operators' employees and equipment rather than fueling at retail service stations and other third party facilities.

Packaging, Distribution and Sale of Lubricants, Other Petroleum Products and Chemicals

We distribute and sell a wide array of petroleum-based lubricants, including products such as gear oil, engine oil, heavy duty motor oil, hydraulic oil, transmission oil, specialty high temperature grease and synthetic lubricants, from our Texas facilities. Our operations include the repackaging of lubricants purchased in bulk quantities and the blending of lubricant products to meet specific customer requirements. We also distribute dry cleaning solvents and other chemicals.

Transportation Logistics Services

Some of our customers, particularly those engaged in the construction industry within Texas, require the movement of heavy equipment, such as bulldozers, cranes and road grading equipment. To meet this demand, we provide specialized transportation and logistics services utilizing a fleet of re-configurable tractor-trailer units to provide the delivery of specialized commodities, including heavy haul, over-size and/or over-weight machinery and equipment. These services are primarily supplied in Texas as well as in the Southeast and Southwest regions of the U.S.

Emergency Response Services

We provide fuel supply services to governmental agencies, utilities, communication companies, delivery services and other fleet and equipment operators when emergency situations, such as severe weather conditions and related disasters, create power interruptions, supply outages or access restrictions on our customers. We provide access to emergency fuel supplies at times and locations chosen by our customers, allowing them to react more quickly and effectively to emergency situations. For example, in 2005 we responded to Hurricanes Katrina and Rita by mobilizing personnel and our fleet of specialized trucks and equipment to provide emergency fuel supply and support services following the devastation caused by those storms. In addition, our emergency generator services program provides customers with ongoing fuel testing, treatment, filtration and top-off services to ensure that generators and other emergency power supply systems are fully fueled and that the fuel is in optimal condition for use at the onset of power outages. We then provide emergency fuel supplies in a series of scheduled deliveries for the duration of power outages based on the consumption and utilization requirements of these generator systems.

Operating Equipment

We operate a fleet of over 200 specialized commercial vehicles, including fueling and lubricant tank wagons, tractor trailer fuel and lubricant transports, lubricant delivery box trucks, flatbed vehicles and special heavy haul tractor-trailer units. Our custom commercial mobile fueling trucks have fuel carrying capacities ranging from 2,800 to 4,500 gallons and are equipped with multi-compartmented tanks. Generally, each truck services between five and fifteen customer locations per night or day, on specified delivery routes. The fuel we deliver is acquired daily at local third-party petroleum terminal storage facilities. The driver of each truck also fuels the customer vehicles.

We also own over 800 fuel and lubricant storage tanks with an excess of 1.7 million gallons of capacity. These tanks include bulk storage tanks located at our facilities and portable tanks used for the temporary storage and dispensing of fuels and lubricants at customer job sites. We deliver portable storage tanks to the customer's job-site or other locations; and reposition, re-supply and maintain them as required, on a scheduled or on as needed basis.

Marketing and Customers

We identify and market to potential customers requiring petroleum related services and products within our established service areas. We also pursue the development of new markets by first evaluating the profitability of volume and margin commitments of any potential customers in those new areas. Our primary methods for developing new business are through direct marketing and referrals from existing customers as well as from our own personnel. We evaluate new customers on factors such as type and size of service required, proximity to existing markets, volume commitments, profitability margins and credit worthiness.

Our commercial mobile and bulk fueling and lubricant distribution customers are principally companies operating fleets of vehicles and equipment in a variety of industries including the trucking, manufacturing, construction, shipping, utility, energy, chemical, telecommunication and government services industries. We are usually the exclusive service provider for the fueling of a customer's entire fleet or a particular location of vehicles and equipment. Our lubricant customers are primarily companies requiring large volumes of specialty industrial oils, motor and gear

lubricants and greases that must adhere to rigid technical and performance specifications. In addition, we market and distribute solvents and specialty petroleum products to dry cleaners and industrial customers in Texas and certain other products, such as fire training chemicals, throughout the U.S.

During the years ended June 30, 2007, 2006 and 2005, approximately 6.7%, 6.8% and 10.4% of our revenues, excluding petroleum product taxes, were derived from fleet fueling services provided to the United States Postal Service, our largest customer. We have provided fueling services to the United States Postal service for over 13 years pursuant to a series of contracts, including our current agreement expiring in August 2008. Although we do have some length of service written contracts with a few of our larger customers, these types of agreements are not customary in the fuel and lubricant distribution industry, and therefore, we do not have written contracts with the majority of our customers. Most of our customers can terminate our services at any time and for any reason and, correspondingly, we can discontinue service to those customers at any time. We may also discontinue service to a customer if changes in service conditions or other factors cause us not to reach our minimum targeted levels of volumes and margins, and we are unable to negotiate a satisfactory arrangement with the customer to reach our minimum financial requirements.

The Company bills for its petroleum and other products and services once they are delivered. All sales are final upon delivery. Once billed, we extend payment terms of 10 to 30 days to most of our customers.

Fuel and Lubricant Supply

We purchase the fuel delivered to our customers from multiple suppliers at daily market prices and in certain cases we qualify for discounts. We monitor fuel prices and trends in each of our service markets daily seeking to purchase our supply at the lowest prices and under the most favorable terms. We mitigate commodity price risk by purchasing and delivering fuel supplies daily and by generally utilizing cost-plus pricing when billing customers.

We purchase the majority of our lubricants from a single supplier pursuant to a long-term supply agreement who also offers marketing and financing assistance to our customers. Lubricants are distributed and sold in bulk, prepackaged or repackaged by us to meet customer needs. We price lubricant products on a cost plus basis. Lubricants inventory generally is not subject to significant market price volatility as is fuel.

We purchase chemicals from several key suppliers. Products are delivered to our location to be redistributed to our customers via company owned equipment. Chemical sales are done in truckload quantities, or in containers ranging from 5 gallons to 55 gallons.

Competition

We compete with other distributors of fuels, lubricants and other petroleum products, including several large regional distributors and numerous small independent operators. Our mobile fueling operations also compete with retail marketing outlets such as retail stations and other third-party service locations. We believe that the primary competitive factors affecting our market include price, ability to meet complex and technical services needs, dependability, extended credit terms, service locations, and the ability to provide fuel- management tools.

We believe our principal competitive advantages include:

- our patented proprietary electronic fuel tracking control system;
- our reputation for timely, efficient and reliable delivery of products and services;
- our well trained drivers and support staff;
- our technical knowledge of our products and our customers' needs; and
- our competitive pricing for products and services as a result of strong business relationships with our principal suppliers.

Intellectual Property

Our patented proprietary fuel tracking and management reporting system is widely used in our commercial mobile fueling operations. We own all patents covering the system, the rights to which are registered with the United States Patent and Trademark Office and expire in the year 2015, unless otherwise extended.

We currently have trademarks applications pending before the United States Patent and Trademark Office covering our trade name and logo. We rely upon a combination of trademark laws and non-disclosure and other contractual arrangements to protect our proprietary rights.

Employees

At June 30, 2007 and 2006, we employed 269 and 326 full-time employees, respectively.

Governmental Regulation

Our operations are affected by numerous federal, state and local laws, regulations and ordinances, including those relating to protection of the environment and worker safety. Various federal, state and local agencies have broad powers under these laws, regulations and ordinances. In particular, the operation of our commercial fleet of vehicles is subject to extensive regulation by the U.S. Department of Transportation (“DOT”) under the Federal Motor Carrier Safety Act (“FMCSA”), and our transportation of diesel fuel and gasoline is further subject to the Hazardous Materials Transportation Act (“HMTA”). We are subject to regulatory and legislative changes that can affect the economics of the industry by requiring changes in operating practices or influencing the demand for, and the cost of providing, mobile fueling services. In addition, we depend on the supply of diesel fuel and gasoline from the oil and gas industry and are thereby affected by changing taxes, price controls and other laws and regulations generally relating to the oil and gas industry. Our future operations and earnings may be affected by new legislation, new regulations or changes in existing regulations.

The technical requirements of laws and regulations are becoming increasingly expensive, complex and stringent. These laws may impose penalties or sanctions for damages to natural resources or threats to public health and safety. Changing laws and regulations may also expose us to liability for the conduct of or conditions caused by others, or for acts of which we were in compliance with all applicable laws at the time such acts were performed. Sanctions for noncompliance may include revocation of permits, corrective action orders, administrative or civil penalties and criminal prosecution. Certain environmental laws provide for joint and several liabilities for remediation of spills and releases of hazardous substances. In addition, we may be subject to claims alleging personal injury or property damage as a result of alleged exposure to hazardous substances, as well as damage to natural resources.

There can be no assurance that we will be able to comply with existing and future regulatory requirements without incurring substantial costs or otherwise adversely affecting our operations.

Available Information

More information about the Company can be found at our website, www.mobilefueling.com. Our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and any amendments to those reports filed with the Securities Exchange Commission (“SEC”) pursuant to Section 13(a) of the Securities Exchange Act of 1934 are available on the “Investor Relations” section of our website promptly after we file the reports with the SEC. Also available on our website is our Code of Business Conduct. Upon request, all of these documents are available in print without charge to our shareholders. Information on our website is not incorporated by reference in, and is not a part of, this report on Form 10-K.

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All of our filings with the SEC may be reviewed at the SEC's website, www.sec.gov. They may also be read and copied at the SEC's Public Reference Room at 100 F Street, N.F., Room 1580, Washington, DC 20549.

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Item 1A. Risk Factors

CERTAIN FACTORS THAT MAY AFFECT FUTURE OPERATING RESULTS

We are affected by a wide range of factors which could materially affect our business, results of operations and financial condition, and could cause operating results to differ materially from those expressed in any forward-looking statements made by or on behalf of us elsewhere in this report. Below are some of these material factors:

No Assurances of Future Profitability; Losses from Operations; Need for Capital. Reporting Person

Amount

beneficially

owned

Percent

of class:

Sole
power
to vote or
direct the
vote:

Shared

power to

vote or to
direct the
vote:

Sole
power to
dispose or
to direct
the
disposition

of:

Shared

power to

dispose or

to direct

the

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disposition

of:

DBD Cayman Holdings, Ltd.

292,812,490 14.1% 0 292,812,490 0 292,812,490

DBD Cayman, Ltd.

292,812,490 14.1% 0 292,812,490 0 292,812,490

TCG Holdings Cayman II, L.P.

292,812,490 14.1% 0 292,812,490 0 292,812,490

TC Group Cayman Investment Holdings, L.P.

292,812,490 14.1% 0 292,812,490 0 292,812,490

TC Group CSP II, L.L.C.

292,812,490 14.1% 0 292,812,490 0 292,812,490

CSP II General Partner, L.P.

292,812,490 14.1% 0 292,812,490 0 292,812,490

Carlyle Strategic Partners II, L.P.

282,976,480 13.7% 0 282,976,480 0 282,976,480

CSP II Coinvestment, L.P.

9,836,010 0.5% 0 9,836,010 0 9,836,010

Carlyle Strategic Partners II, L.P. and CSP II Coinvestment, L.P. are the record holders of 124,621,253 and 4,331,739 shares, respectively, of the Issuer's common stock and \$9,786,353 and \$340,164, respectively, in aggregate principal amount of the Issuer's 10% Series B Convertible Senior Secured Notes due 2015 (the "Series B Notes"). The Series B Notes held by Carlyle Strategic Partners II, L.P. and CSP II Coinvestment, L.P. are currently convertible into 158,335,227 and 5,504,271 shares of the Issuer's common stock, respectively.

DBD Cayman Holdings, Ltd. exercises investment discretion and control over the shares and notes held by each of Carlyle Strategic Partners II, L.P. and CSP II Coinvestment, L.P. through its indirect subsidiary, CSP II General Partner, L.P., which is the general partner of each of Carlyle Strategic Partners II, L.P. and CSP II Coinvestment, L.P. DBD Cayman Holdings, Ltd. is the sole shareholder of DBD Cayman, Ltd. DBD Cayman, Ltd. is the general partner of TCG Holdings Cayman II, L.P. TCG Holdings Cayman II, L.P. is the general partner of TC Group Cayman Investment Holdings, L.P. TC Group Cayman Investment Holdings, L.P. is the managing member of TC Group CSP II, L.L.C. TC Group CSP II, L.L.C. is the general partner CSP II General Partner, L.P. CSP II General Partner, L.P. Accordingly, each of DBD Cayman Holdings, Ltd., DBD Cayman, Ltd., TCG Holdings Cayman II, L.P., TC Group Cayman Investment Holdings, L.P., TC Group CSP II, L.L.C. and CSP II General Partner, L.P. may be deemed to be beneficial owners of the shares and notes held of record by Carlyle Strategic Partners II, L.P. and CSP II Coinvestment, L.P.

DBD Cayman Holdings, Ltd. is controlled by its ordinary members, and all action relating to the voting or disposition of the shares and notes requires approval of a majority of the ordinary members. William E. Conway, Jr., Daniel A. D Aniello and David M. Rubenstein, as the ordinary members of DBD Cayman Holdings, Ltd., may be deemed to share beneficial ownership of shares and notes beneficially owned by DBD Cayman Holdings, Ltd. Such individuals expressly disclaim any such beneficial ownership.

ITEM 5. Ownership of Five Percent or Less of a Class

Not applicable.

ITEM 6. Ownership of More than Five Percent on Behalf of Another Person

Not applicable.

ITEM 7. Identification and Classification of the Subsidiary Which Acquired the Security Being Reported on By the Parent Holding Company

Not applicable

ITEM 8. Identification and Classification of Members of the Group

Not applicable.

ITEM 9. Notice of Dissolution of Group

Not applicable.

ITEM 10. Certification

By signing below I certify that, to the best of my knowledge and belief, the securities referred to above were not acquired and are not held for the purpose of or with the effect of changing or influencing the control of the issuer of the securities and were not acquired and are not held in connection with or as a participant in any transaction having that purpose or effect.

SIGNATURE

After reasonable 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.

Date: October 5, 2011

DBD Cayman Holdings, Ltd.

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

DBD Cayman, Ltd.

by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

TCG Holdings Cayman II, L.P.

by: DBD Cayman, Ltd., its general partner
by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

TC Group Cayman Investment Holdings, L.P.

by: TCG Holdings Cayman II, L.P., its general partner
by: DBD Cayman, Ltd., its general partner
by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

TC Group CSP II, L.L.C.

by: TC Group Cayman Investment Holdings, L.P., its
managing member
by: TCG Holdings Cayman II, L.P., its general
partner
by: DBD Cayman, Ltd., its general partner
by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

CSP II General Partner, L.P.

by: TC Group CSP II, L.L.C., its general partner
by: TC Group Cayman Investment Holdings, L.P., its
managing member
by: TCG Holdings Cayman II, L.P., its general
partner
by: DBD Cayman, Ltd., its general partner
by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

Carlyle Strategic Partners II, L.P.

by: CSP II General Partner, L.P., its general partner
by: TC Group CSP II, L.L.C., its general partner
by: TC Group Cayman Investment Holdings, L.P., its
sole shareholder
by: TCG Holdings Cayman II, L.P., its general
partner
by: DBD Cayman, Ltd., its general partner
by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

CSP II Coinvestment, L.P.

by: CSP II General Partner, L.P., its general partner
by: TC Group CSP II, L.L.C., its general partner
by: TC Group Cayman Investment Holdings, L.P., its
sole shareholder
by: TCG Holdings Cayman II, L.P., its general
partner
by: DBD Cayman, Ltd., its general partner
by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

LIST OF EXHIBITS

| Exhibit No. | Description |
|------------------------|------------------------|
| 99.1 | Joint Filing Agreement |
| 99.2 | Power of Attorney |

JOINT FILING AGREEMENT

In accordance with Rule 13d-1(k)(1) promulgated under the Securities Exchange Act of 1934, as amended, the undersigned hereby agree to the joint filing with each other on behalf of each of them of such a statement on Schedule 13G with respect to the Common Stock, \$0.01 par value, beneficially owned by each of them of YRC Worldwide Inc., a Delaware Corporation. This Joint Filing Agreement shall be included as an Exhibit to such Schedule 13G.

IN WITNESS WHEREOF, the undersigned hereby execute this Joint Filing Agreement as of the 5th day of October, 2011.

DBD Cayman Holdings, Ltd.

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

DBD Cayman, Ltd.

by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

TCG Holdings Cayman II, L.P.

by: DBD Cayman, Ltd., its general partner
by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

TC Group Cayman Investment Holdings, L.P.

by: TCG Holdings Cayman II, L.P., its general partner
by: DBD Cayman, Ltd., its general partner
by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

TC Group CSP II, L.L.C.

by: TC Group Cayman Investment Holdings, L.P., its managing member
by: TCG Holdings Cayman II, L.P., its general partner
by: DBD Cayman, Ltd., its general partner
by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

CSP II General Partner, L.P.

by: TC Group CSP II, L.L.C., its general partner
by: TC Group Cayman Investment Holdings, L.P., its managing member
by: TCG Holdings Cayman II, L.P., its general partner
by: DBD Cayman, Ltd., its general partner
by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

Carlyle Strategic Partners II, L.P.

by: CSP II General Partner, L.P., its general partner
by: TC Group CSP II, L.L.C., its general partner
by: TC Group Cayman Investment Holdings, L.P., its
sole shareholder
by: TCG Holdings Cayman II, L.P., its general
partner
by: DBD Cayman, Ltd., its general partner
by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

CSP II Coinvestment, L.P.

by: CSP II General Partner, L.P., its general partner
by: TC Group CSP II, L.L.C., its general partner
by: TC Group Cayman Investment Holdings, L.P., its
sole shareholder
by: TCG Holdings Cayman II, L.P., its general
partner
by: DBD Cayman, Ltd., its general partner
by: DBD Cayman Holdings, Ltd., its sole shareholder

by: /s/ John Beczak,
attorney in fact for David M. Rubenstein
Name: David M. Rubenstein
Title: Ordinary Member

POWER OF ATTORNEY

The undersigned understands that, from time to time, the Carlyle Companies (defined below) are required to prepare, execute and file certain federal and state securities laws filings.

Know all by these presents, that the undersigned hereby constitutes and appoints each of Curt Buser, Jeff Ferguson, David Pearson, Catherine Ziobro, R. Rainey Hoffman, Joanne Cosiol, Monica Harris, Jeremy Anderson, Bruno De Gusmao, Ann Siebecker, Andrea Pekala, Tom Mayrhofer, David Willich, Glen Goold, Orit Mizrachi, John Beczak, Rick Kappler, Matt LoRusso, Rob Konigsberg, Katey Bogue, James Sloan, or any of them signing singly, and with full power of substitution, the undersigned's true and lawful attorney-in-fact to:

- (1) prepare, execute in the name of each Carlyle Company and on behalf of each Carlyle Company, and submit to the U.S. Securities and Exchange Commission (the SEC) a Form ID, including amendments thereto, and any other documents necessary or appropriate to obtain codes and passwords enabling the undersigned to make electronic filings with the SEC of Forms D (Form D) required to be filed in accordance with Rule 503 (Rule 503) promulgated with respect to Sections 4(2), 4(6) and 3(b) of the Securities Act of 1933 (the 1933 Act) and reports required by Sections 13(d) and 16(a) of the Securities Exchange Act of 1934 (the 1934 Act) or any rule or regulation of the SEC;
- (2) prepare and execute for and on behalf of each Carlyle Company, in the undersigned's capacity as a Managing Director, authorized person, officer and/or director of each Carlyle Company, federal and state securities laws filings including without limitation Forms D pursuant to Rule 503 and Schedules 13D and 13G and Forms 3, 4, and 5 in accordance with Sections 13(d) and 16(a) of the 1934 Act and the rules thereunder;
- (3) do and perform any and all acts for and on behalf of each Carlyle Company which may be necessary or desirable to complete and execute any such federal and state securities laws filings including without limitation Forms D, Schedules 13D and 13G and Forms 3, 4, and 5, complete and execute any amendment or amendments thereto, and timely file such form with the SEC and the securities administrators of any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam and the United States Virgin Islands or their designees and any stock exchange or similar authority; and
- (4) take any other action of any type whatsoever in connection with the foregoing which, in the opinion of such attorney-in-fact, may be of benefit to, in the best interest of, or legally required by, the undersigned, it being understood that the documents executed by such attorney-in-fact on behalf of the undersigned pursuant to this Power of Attorney shall be in such form and shall contain such terms and conditions as such attorney-in-fact may approve in such attorney-in-fact's discretion.

The undersigned hereby grants to each such attorney-in-fact full power and authority to do and perform any and every act and thing whatsoever requisite, necessary, or proper to be done in the exercise of any of the rights and powers herein granted, as fully to all intents and purposes as the undersigned might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that such attorney-in-fact, or such attorney-in-fact's substitute or substitutes, shall lawfully do or cause to be done by virtue of this power of attorney and the rights and powers herein granted, whether the same needs to be executed, taken or done by him in his capacity as a current or former member, partner, shareholder, director or officer of any company, partnership, corporation, organization, firm, branch or other entity connected with, related to or affiliated with any of the entities constituting the Carlyle Companies or entities that directly or indirectly hold interests in the Carlyle Companies.

The undersigned acknowledges that the foregoing attorneys-in-fact, in serving in such capacity at the request of the undersigned, are not assuming any of the undersigned's responsibilities to comply with federal and state securities laws, including without limitation Rule 503 of the 1933 Act or Section 13 and Section 16 of the 1934 Act.

This Power of Attorney and all authority conferred hereby shall not be terminated by operation of law, whether by the death or incapacity of the undersigned or by occurrence of any other event. Actions taken by an attorney-in-fact pursuant to this Power of Attorney shall be as valid as if any event described in the preceding sentence had not occurred, whether or not the attorney-in-fact shall have received notice of such event. Notwithstanding the foregoing, (i) in the event that an attorney-in-fact is no longer employed by The Carlyle Group Employee Co., L.L.C. or its affiliates, this Power of Attorney and all authority conferred hereby shall be immediately terminated with respect to such Attorney, and (ii) the undersigned may terminate or revoke this Power of Attorney at any time.

For purposes hereof, the Carlyle Companies shall consist of: (i) TWC Virginia, Inc., a Delaware corporation, TC Group, L.L.C., a Delaware limited liability company, TC Group Cayman, L.P., a Cayman Islands exempted limited partnership, TC Group Investment Holdings, L.P., a Delaware limited partnership and TC Group Cayman Investment Holdings, L.P., a Cayman Islands exempted limited partnership; (ii) their respective owners, including without limitation TCG Holdings, L.L.C., a Delaware limited liability company, TCG Holdings Cayman, L.P., a Cayman Islands exempted limited partnership, TCG Holdings II, L.P., a Delaware limited partnership, TCG Holdings Cayman II, L.P., a Cayman Islands exempted limited partnership, TCG Employee Co., L.L.C., a Delaware limited liability company, Carlyle Offshore Partners II, Ltd., a Cayman Islands exempted company with limited liability, Carlyle Offshore Partners II Holdings, Ltd., a Cayman Islands exempted company with limited liability, DBD Investors V, L.L.C., a Delaware limited liability company, DBD Investors V Holdings, L.L.C., a Delaware limited liability company, DBD Cayman, Ltd., a Cayman Islands exempted company with limited liability and DBD Cayman Holdings, Ltd., a Cayman Islands exempted company with limited liability; and (iii) the subsidiaries and affiliates of the foregoing in clauses (i) and (ii), including without limitation investment funds sponsored directly or indirectly by one or more of the Carlyle Companies.

IN WITNESS WHEREOF, the undersigned has caused this Power of Attorney to be executed as of this 11th day of February, 2011.

/s/ David M. Rubenstein
Name: David M. Rubenstein