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John R. McGaha  
President

March 26, 2001

The Honorable Richard A. Meserve  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

SUBJECT: Decommissioning Funding Cessation

CNRO-2001-00013

Dear Chairman Meserve:

This letter is designed to advise you of recent developments concerning funding of the external sinking funds for decommissioning of several nuclear plants operated by Entergy Operations, Inc. on behalf of the plants' owners; and to seek the NRC's guidance concerning these developments. Prior to January 2001, each of Entergy Operations' plants' decommissioning liabilities was being covered by an external sinking fund, as permitted under NRC regulations found at 10 C.F.R. §50.75(e)(1)(ii). Recent and ongoing actions by the Arkansas and Louisiana Public Service Commissions are changing the vehicle for collecting the necessary funding. This topic was discussed with members of your staff on March 12 in a public meeting held at NRC headquarters in Rockville, Maryland. Our intention to send this letter was discussed during that meeting.

In 2000 the Arkansas Public Service Commission (APSC) held hearings on the appropriate level of decommissioning funding for Arkansas Nuclear One, Units 1 and 2 (ANO 1 and ANO 2) (APSC Docket No. 87-166-TF), which are operated by Entergy Operations, Inc. and owned by Entergy Arkansas, Inc. (EAI). At the hearings, the APSC staff testified that ANO 1 had filed with the NRC for an operating license renewal under 10 C.F.R. Part 54, and that renewal approval is likely for that unit. The staff reasoned that because it is likely that EAI would ultimately receive a license renewal for ANO 1 and ANO 2, it is also likely that EAI would operate ANO 1 and ANO 2 into an extended license term. Under current assumptions regarding trust fund earnings and the escalation of decommissioning costs, the APSC staff argued that the ANO decommissioning trusts would be overfunded if ANO 1 and ANO 2 operate for several years past their original 40-year licensed life and if decommissioning funding were not ceased immediately.

EAI argued that the acquisition of a license renewal provides no indication that a decision will be made to operate a plant past its initial licensed life. Furthermore, even if license renewal and the decision to operate past forty years were synonymous, neither ANO 1 nor

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ANO 2 have a renewed NRC license at this time. EAI also voiced its concerns that cessation of decommissioning collections would not be consistent with NRC regulations and guidance concerning payments into an external sinking fund for decommissioning of a nuclear plant.

As a result of those hearings, on October 3, 2000, the APSC issued its Order 32, ordering, in relevant part, that collections from ratepayers for decommissioning funds for ANO 1 and ANO 2 should be ceased as of January 1, 2001. In accordance with that order, decommissioning collections for ANO and payments into ANO's decommissioning trusts have been halted.

Based in part on the actions taken by the APSC, in December 2000, consultants for the Louisiana Public Service Commission (LPSC) staff recommended that the LPSC cease decommissioning collections for Entergy Gulf States, Inc.'s (EGSI) River Bend Station (River Bend) in LPSC Docket No. U-24993. EGSI has filed testimony opposing this action, and has presented arguments similar in substance to those presented to the APSC. This case is currently scheduled to go to hearings some time in the early part of this year. If the LPSC rules that River Bend's decommissioning trust funding should be ceased, Entergy expects the LPSC staff consultants to make the same recommendation with respect to Entergy Louisiana, Inc.'s (ELI) Waterford 3 Nuclear Station (Waterford 3). Pursuant to 10 C.F.R. § 54.17(c), neither River Bend nor Waterford 3 is even eligible to apply to the NRC for a license renewal at this time.

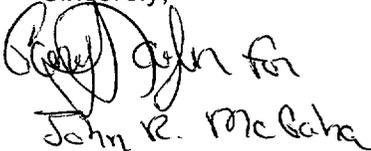
NRC regulations do not appear to sanction the cessation of decommissioning collections for ANO 1, ANO 2, River Bend or Waterford 3 based upon an assumed life extension. 10 C.F.R. § 50.75(e)(1)(ii) provides that payments to an external sinking fund should be made in an amount such that "funds would be sufficient to pay decommissioning costs at the time termination of operation is expected." NRC Regulatory Guide 1.159 states, more explicitly, that deposits to the sinking fund should be calculated based on "the remaining years of the license." Reg. Guide 1.159 at section 2.2.5.

Entergy Operations, Inc. requests guidance from the NRC on whether elimination of collections for decommissioning trust funding based on an assumed life extension (where there is no license renewal) is consistent with NRC requirements for decommissioning funding assurance. We believe that if the NRC does not express its position on this matter in a timely manner, other public service commissions may construe the NRC's silence as acquiescence to elimination of decommissioning funding. Entergy Operations would appreciate the earliest possible response from the NRC. If the NRC's position is that elimination of collections under these circumstances is inappropriate, we would like to present this position to one or more of the public service commissions that regulate Entergy Operations' plants' decommissioning funding prior to their taking final actions.

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If we can provide you with any additional information, please contact me at 601-368-5690.  
Thank you for your attention to this important matter.

Sincerely,

  
John R. McCabe

JRM/LJS/baa

cc: Mr. C. G. Anderson (N-GSB) Mr. G. J. Taylor (M-ECH-65)  
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