

December 19, 1988

Docket No. 50-416

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Mr. W. T. Cottle
Vice President, Nuclear Operations
System Energy Resources, Inc.
Post Office Box 23054
Jackson, Mississippi 39205

Dear Mr. Cottle:

SUBJECT: ISSUANCE OF AMENDMENT NO. 54 TO FACILITY OPERATING LICENSE
NO. NPF-29 - AUTHORIZING THE SALE AND LEASEBACK OF A PORTION
OF GRAND GULF NUCLEAR STATION, UNIT 1, (TAC NO. 69815)

The Nuclear Regulatory Commission has issued the enclosed Amendment No. 54 to Facility Operating License No. NPF-29 for the Grand Gulf Nuclear Station, Unit 1. This amendment changes Operating License No. NPF-29 in response to your application dated October 19, 1988, as supplemented October 31, 1988, November 11, 1988, and December 7, 1988.

The amendment adds a license condition authorizing the sale and leaseback of a portion of its 90 percent ownership interest in Grand Gulf Nuclear Station, Unit 1, by System Energy Resources, Inc.

A copy of the Safety Evaluation is also enclosed. The Notice of Issuance will be included in the Commission's bi-weekly Federal Register notice.

Sincerely,

ORIGINAL SIGNED BY:

Lester L. Kintner, Senior Project Manager
Project Directorate II-1
Division of Reactor Projects I/II
Office of Nuclear Reactor Regulation

Enclosures:

1. Amendment No. 54 to NPF-29
2. Safety Evaluation

cc w/enclosures:
See next page

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OFC	: LA: PD21 / DRPR: PM: PD21, DRPR: D: PD21 / DRPR :	:	:	:	:
NAME	: Anderson : LKintner: : EAdensam	:	:	:	:
DATE	: 12/12/88 : 12/14/88 :	:	:	:	:

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AMENDMENT NO. 54 TO FACILITY OPERATING LICENSE NO. NPF-29 - GRAND GULF

Docket File

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Grand Gulf Nuclear Station (GGNS)

cc:

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MISSISSIPPI POWER & LIGHT COMPANY

SYSTEM ENERGY RESOURCES, INC.

SOUTH MISSISSIPPI ELECTRIC POWER ASSOCIATION

DOCKET NO. 50-416

GRAND GULF NUCLEAR STATION, UNIT 1

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 54
License No. NPF-29

1. The Nuclear Regulatory Commission (the Commission) has found that
 - A. The application for amendment by System Energy Resources, Inc., (the licensee), dated October 19, 1988, as supplemented October 31, November 11, and December 7, 1988, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

2. Accordingly, the license is amended by adding a new License Condition, 2.B.(7)(a) and (b), to Facility Operating License No. NPF-29 to read as follows:

(a) SERI is authorized to transfer up to 15 percent of its 90.0% ownership share in Grand Gulf Nuclear Station, Unit 1 (GGNS Unit 1), to certain equity investors identified in the submissions of October 31, 1988 and November 11, 1988, and at the same time to lease back from such purchasers such interest sold in the facility. The term of the lease is for approximately 26 years subject to a right of renewal. Such sale and leaseback transactions are subject to the condition that lessors and anyone else who may acquire an interest under these transactions are prohibited from exercising directly or indirectly any control over (i) GGNS Unit 1, (ii) power or energy produced by GGNS Unit 1, or (iii) the licensees of GGNS Unit 1. Further, any rights acquired under this authorization may be exercised only in compliance with and subject to the requirements and restrictions of this operating license, the Atomic Energy Act of 1954, as amended, and the Commission's regulations. For purposes of this condition, the limitations of 10 CFR 50.81, as now in effect and as they may be subsequently amended, are fully applicable to the lessors and any successors in interest to those lessors, as long as the license for GGNS Unit 1 remains in effect.

(b) SERI is required to notify the NRC in writing prior to any change in (i) the terms or conditions of any new or existing sale or lease agreements executed as part of the above authorized financial transactions, (ii) the GGNS Unit 1 operating agreement, (iii) the existing property insurance coverage for GGNS Unit 1 that would materially alter the representations and conditions set forth in the staff's Safety Evaluation Report dated December 19, 1988 attached to Amendment No. 54. In addition, SERI is required to notify the NRC of any action by a lessor or other successor in interest to SERI that may have an effect on the operation of the facility.

3. This license amendment is effective as of its date of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

ORIGINAL SIGNED BY:

Steven A. Varga, Director
Division of Reactor Projects I/II
Office of Nuclear Reactor Regulation

Date of Issuance: December 19, 1988

OFC	: LA: PD21: DRPR: PM: PD21: DRPR:	OGC	: D: PD21: DRPR:	AD: DRPR	: D: DRPR
NAME	: P Anderson	: L Kinter	: E Adensam	: G Lamas	: S Varga
DATE	: 12/17/88	: 12/15/88	: 12/12/88	: 12/14/88	: 12/15/88

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
SUPPORTING AMENDMENT NO. 54 TO FACILITY OPERATING LICENSE NO. NPF-29
MISSISSIPPI POWER & LIGHT COMPANY
SYSTEM ENERGY RESOURCES, INC.
SOUTH MISSISSIPPI ELECTRIC POWER ASSOCIATION
GRAND GULF NUCLEAR STATION, UNIT 1
DOCKET NO. 50-416

1.0 INTRODUCTION

By letter dated October 19, 1988, System Energy Resources, Inc. (SERI or the licensee), submitted to the Commission a proposed operating license amendment to Grand Gulf Nuclear Station, Unit 1 (GGNS-1). The amendment would change the existing ownership of GGNS-1 by way of sale/leaseback transactions involving one or more "passive" equity investors, i.e., owners prohibited from exercising any direct or indirect control over the nuclear facility in question, in addition to the existing owners, SERI and the South Mississippi Electric Power Association (SMEPA). SERI has stated that the portion of GGNS-1 to be sold and leased back would come from SERI's 90 percent ownership share and not affect SMEPA's 10 percent share.

In subsequent letters dated October 31, 1988, and November 11, 1988, SERI identified the initial Owner Participant (or equity investor), as Public Service Resources Corporation (PSRC), an affiliate of Public Service Electric and Gas, and Meridian Trust Company (Meridian) as Owner Trustee. The Owner Trustee will purchase and hold the interest in GGNS-1 for the benefit of the equity investors.

By letter dated December 7, 1988, SERI clarified its proposed license condition to be consistent with its October 19, 1988 application in certain respects. The Federal Register notice of the proposed determination of no significant hazards consideration was published November 16, 1988 (53 FR 46148) and did not include the November 11, 1988 supplemental information identifying the Owner Trustee, nor the December 7, 1988 clarification of the proposed license condition. The November 16 and December 7, 1988 submittals do not significantly change the proposed license amendment considered in the notice and, therefore, the proposal was not renoticed.

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2.0 EVALUATION

2.1 Financial Considerations

SERI states that the proposed transaction for GGNS-1 is similar in all material respects to the previously approved transactions. The proposed sale/leaseback, like the previous transactions, is a capital refinancing vehicle for one of the plant's owners, SERI, whereby it may refund a substantial amount of high cost securities in return for lease payments over a period of years. The sale/leaseback is supposed to: (1) moderate both SERI's revenue requirements and rate increases for SERI's ultimate customers; and (2) provide substantial tax benefits to the investor(s), mainly in the form of accelerated depreciation. It is important to NRC that the investors are merely passive financiers and have no authority or control over plant operation; control is retained exclusively by the licensee.

From a financial standpoint, NRC is concerned mainly about the continuity of the source of funds to carry out the licensed activity. In this case, as in the previous transactions, the source of funds remains constant. It is the revenues generated by the sale of electricity by SMEPA and by the operating utilities of the Middle South system. These are Mississippi Power & Light Company, Arkansas Power and Light Company, Louisiana Power and Light Company and New Orleans Public Service, Inc. SERI and the four operating utilities are all wholly-owned subsidiaries of Middle South Utilities, Inc., a utility holding company. Under rates established by the Federal Energy Regulatory Commission and the respective public utility commissions, the retail and wholesale customers of the four operating utilities will continue (after the sale/leaseback, as before) to provide the funds required for the safe operation and maintenance and eventual decommissioning of GGNS-1.

In conclusion, the sale/leaseback does not affect the source of funds for carrying out the licensed activity and for complying with NRC requirements. Accordingly, there are no financial qualification concerns that impact on NRC's approval of the proposed sale/leaseback transaction.

2.2 Antitrust Considerations

NRC reviews license amendment applications to determine whether or not the amendment would impact on any existing antitrust license conditions or change conditions or activities under the license that would create or maintain inconsistencies with the antitrust laws. From the data submitted by the licensee, SERI, the proposed amendment appears to do neither of these.

License amendments that involve change in ownership, specifically new owners, are of particular concern to NRC in the context of its antitrust review responsibilities. It is important for NRC to be aware of the identity of owners of the nuclear facility in question so that an assessment can be made regarding the manner in which the facility will be used by any new owner in a particular bulk power services market. Owners and potential owners that possess the ability to control various aspects of the bulk power services market, i.e., those with market power, are reviewed by NRC in an effort to ensure that the addition of the nuclear facility to their generation and transmission mix will not adversely impact the competitive process. Specifically, NRC is charged with preventing the creation or maintenance of activities that may be inconsistent with the antitrust laws.

In its amendment request, SERI cites previous sale/leaseback proposals involving nuclear plants that have been approved by the Commission and states that its request is, "...similar in all material respects to the previously approved transactions." More specifically, the amendment request states that,

... so long as the Lease is in effect, these entities [i.e., the equity investors] will not have, by virtue of the Lease, any right to GGNS Unit 1 capacity or associated energy, and such capacity and energy will be allocated in the same manner, and with the same terms, as is presently set forth in the Operating Agreement and Ownership Agreement. Moreover, participation by equity investors will have no effect on the operation of the plant or the generation and transmission of electricity.

[Amendment Request, dated October 19, 1988, p. 17]

SERI has attempted to structure its sale/leaseback proposal in a manner that will not change competitive forces at work in the Mississippi bulk power services market. If the proposed amendment were structured otherwise, the new owner(s) would, necessarily, have to undergo a formal antitrust review.

Based on its review of the licensee submittals, NRC concludes that the proposed License Condition 2.B.(7), will ensure that any new equity investor resulting from the proposed sale and leaseback transactions for GGNS-1 will be sufficiently divorced from the operations of the plant that a formal antitrust review is not required. This conclusion is based on the fact that any new owner resulting from these transactions will not have any direct or indirect control over (1) GGNS-1, (2) the power or energy produced by GGNS-1, or (3) the GGNS-1 licensees.

3.0 CONTACT WITH STATE OFFICIAL

The Mississippi Department of Health has been advised of the proposed determination of no significant hazards considerations with regard to the amendment. No comments were received.

4.0 ENVIRONMENTAL CONSIDERATION

This amendment only involves the administration of the credit and financial arrangements for GGNS-1. The parties will enter into agreements which provide for the sale and lease back of ownership shares by the licensees under terms requiring continued full control and responsibility over these ownership shares by the licensees. The lessors and anyone else who may acquire an interest under these transactions are prohibited from exercising directly or indirectly, any control of the license. The amendment also includes a reporting requirement that the NRC must be notified in writing prior to any change in the executed lease agreements, the GGNS-1 participation agreement, the existing insurance policies or any action by a lessor or others that may have an adverse effect on the safe operation of the facility. Accordingly this amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(10). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of this amendment.

5.0 CONCLUSION

The staff has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, and (2) such activities will be conducted in compliance with the Commission's regulations and (3) the issuance of amendments will not be inimical to the common defense and security or to the health and safety of the public. We, therefore, conclude that the requested authorization is acceptable.

Principal Contributors:

James C. Petersen, Senior Financial Policy Analyst
William M. Lambe, Senior Antitrust Policy Analyst

Dated: December 19, 1988