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PUBLIC SERVICE COMMISSION
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August 29, 2002

Mr. Samuel J. Collins
Director, Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Mail Stop O-5E7
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

50-293
50-313/368
50-416
50-458
50-390

Dear Mr. Collins:

This letter is in response to John McGaha's letter of July 25, 2002 concerning Entergy's questions about compliance with NRC regulations on decommissioning funding. Mr. McGaha's letter stated the NRC should schedule a meeting to discuss these questions. Bill Reckley has contacted our staff to coordinate the meeting. Three or four representatives from our staff will attend the meeting tentatively scheduled for September 24, 2002.

As you know, this is not the first time this issue has been addressed. Mr. McGaha wrote to Chairman Meserve concerning this very issue on March 26, 2001. The Arkansas Public Service Commission's position was clarified in a letter from me to Chairman Meserve on August 2, 2001. Given Chairman Meserve's letter of May 11, 2001 it was our understanding that this issue as it pertains to Arkansas Nuclear One had been addressed in a satisfactory manner. We were therefore surprised to learn that Entergy had continued to press this issue with the NRC. It is our hope that the September 24 meeting will resolve any remaining issues or questions.

The Arkansas Public Service Commission appreciates the opportunity to participate in the resolution of this matter.

Sincerely,

A handwritten signature in cursive script that reads "Sandra Hochstetter".

Sandra Hochstetter
Chairman

Attachments (referenced correspondence)

A001

Mr. Samuel J. Collins

August 29, 2002

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cc: Mr. John McGaha, President, Entergy Operations, Inc.
Mr. James M. Field, Chairman, Louisiana PSC
Mr. W. W. Merschoff, NRC Administrator, Region IV
Mr. W. D. Reckley, NRC Project Manager, (ANO-1)
Mr. T. W. Alexion, NRC Project Manager, (ANO-2)



Entergy Operations, Inc.
P.O. Box 31995
Jackson, MS 39286-1995
Tel 601 368 5690
jmcgaha@entergy.com

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

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.

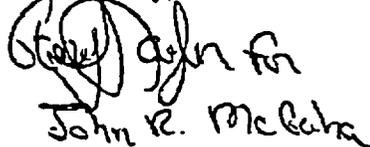
NRC regulations do not appear to sanction the cessation of decommissioning collections for ANO 1, ANO 2, River Bend or Waterford 3 based upon an assumed life extension. 10 C.F.R. § 50.75(e)(1)(ii) provides that payments to an external sinking fund should be made in an amount such that "funds would be 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.

Decommissioning Funding Cessation
March 26, 2001
CNRO-2001-00013
Page 3 of 3

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. McEwen

JRM/LJS/baa

cc: Mr. C. G. Anderson (N-GSB) Mr. G. J. Taylor (M-ECH-65)
Mr. J. L. Blount (M-ECH-62) Mr. E.W. Merschhoff
Mr. W. A. Eaton (G-ESC-VPNO) Mr. N. S. Reynolds
Mr. R. K. Edington (R-GSB-40) Mr. L. Jager Smith (Wise, Carter)
Mr. J. T. Herron (W-GSB-300) Mr. D.E. Levanway (Wise, Carter)
Mr. S.M. Henry Brown (L-ENT-WDC)

Mr. W. D. Reckley, Project Manager (ANO-1)
Mr. T. W. Alexion, Project Manager, (ANO-2)
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Mail Stops 5H16; 4D6A
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Mr. R. E. Moody, Project Manager (RBS)
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Mr. N. Kalyanam, Project Manager (W-3)
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Mr. S. P. Sekerak, Project Manager (GGNS)
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CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 205554001

May 11, 2001

CNRI-2001-00003
(2)

Mr. John McGaha, President
Entergy Operations, Inc.
P.O. Box 31995
Jackson, Mississippi 39286-1 995

Dear Mr. McGaha:

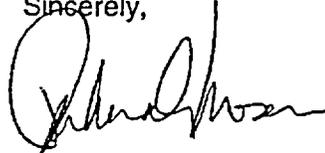
Thank you for your letter of March 26, 2001, informing us of a recent decision by the Arkansas Public Service Commission (APSC) regarding the amount of decommissioning funds that APSC has allowed to be collected for Arkansas Nuclear One, Units 1 and 2 (ANO 1 and ANO 2, respectively), in rates charged to electricity consumers.

You indicate that, based upon an assumption by the APSC that the license renewal application filed for ANO 1 pursuant to 10 CFR Part 54 is likely to be approved by the NRC, the APSC has determined that ANO 1 and ANO 2 will be operated into the renewed license term. As a result, using its current assumptions regarding decommissioning trust fund earnings and decommissioning cost escalation, the APSC has apparently concluded 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 funds collections from ratepayers were not ceased immediately. You indicate that the APSC issued an order on October 3, 2000, that collections from ratepayers for decommissioning funds for ANO 1 and ANO 2 should end as of January 1, 2001. You also indicate that decommissioning collections were, in fact, stopped as of that date. You further state that based on the APSC action, the Louisiana Public Service Commission may take similar actions for the River Bend Station and Waterford 3 Nuclear Station. You request guidance from the NRC on whether the 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.

The NRC expects that decommissioning funding assurance will be provided such that the necessary funds will be available by the end of the licensed operating life, based on the current license term. Section 50.75 (e)(1)(ii) of the Commission's regulations provides that payments to an external sinking fund are to be made such that "the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected." The NRC interprets this section of its regulations to require that the accumulation of decommissioning funds in an external sinking fund be based on the remaining term of the license. Thus, if the NRC issues an operating license for a nuclear power plant for a term of 40 years, the decommissioning funds collection and earnings period should be based on that 40-year license term. Decommissioning fund collection can be based on a renewed license (e.g., 60 years) only after the NRC has approved the license renewal. Issuance of a renewed license is subject to a favorable review by the NRC and cannot be taken for granted. According to our present schedule, we expect to reach a decision about whether to grant license renewal for ANO 1 early this Summer. No application for renewal has been filed for ANO 2.

If you have any further questions on this matter, please contact Robert Wood at (301) 415-1255.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Meserve". The signature is written in a cursive style with a large initial "R".

Richard A. Meserve

cc: Chairman Sandra L. Hochstetter, APSC
Chairman James M. Field, LPSC

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August 2, 2001

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

Dear Chairman Meserve:

On March 26, 2001 Entergy Operations, Inc. President John McGaha wrote to you concerning the external sinking funds for decommissioning nuclear plants operated by Entergy. Two of the plants referred to are Arkansas Nuclear One (ANO) Unit 1 and Unit 2. The purpose of this letter is to clarify the Arkansas Public Service Commission's position regarding funding for the decommissioning of these units.

This Commission has not changed the vehicle for decommissioning funding. In 1987 the Commission approved Rider M26 as the funding vehicle for nuclear decommissioning costs to ensure that funds would be available at the termination of operation of ANO Unit 1 and Unit 2. Rider M26 is a unique rate mechanism designed specifically to recover the projected decommissioning costs for ANO Unit 1 and Unit 2. The Rider provides for updated cost projections every five years and annual updates of the financial model inputs including inflation factor, fund balances and earnings projections in an annual review of the status of decommissioning funding. Rider M26 remains an approved Entergy tariff and trust earnings continue to accumulate. The balance in the external trust funds totaled \$360 million as of December 2000. While collections are suspended for 2001, all other aspects of the tariff are effective. Annual filings continue as do the projected cost updates.

Our objective continues to be the assurance of funding at decommissioning. However, the risk of over-collection was an issue brought before the Commission. Testimony assessed the impact of not receiving license extensions and calculated the risk to ratepayers in terms of increased future annual revenue requirements. The risk of over-collection without timely refunds was clearly much greater than the increased future annual revenue requirements. A 20-year life extension was not necessary for the conclusion that revenue collection should be suspended. It was on the basis of this testimony that the Commission suspended collections under Rider M26 at this time with a specific provision for continued annual monitoring. Our order in no way prevents collection of decommissioning funds should it be determined in the future that such funds are required to decommission ANO.

August 2, 2001

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I hope this clarification is useful in explaining the specific facts in Arkansas, serving as the basis for our ruling. If you have any questions or need clarification, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Sandra Hochstetter". The signature is fluid and includes a large, sweeping flourish at the end.

Sandra Hochstetter
Chairman



Entergy Operations, Inc.
1000 Peachtree Street, N.E.
Atlanta, Georgia 30309
404.524.5000
www.entergy.com

John R. McGaha
President

CNRO-2002-00044

July 25, 2002

Mr. Samuel J. Collins
Director, Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Mail Stop O-5E7
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

SUBJECT: Decommissioning Funding Questions

Dear Mr. Collins:

Pursuant to our recent communications, you have asked that I submit a succinct summary of Entergy's questions concerning compliance with NRC regulations on decommissioning funding. My staff has recently provided your staff with some detailed questions. Our primary policy-level questions may be summarized as follows:

1. Our interpretation of 10 C.F.R. §50.75(e)(1)(ii), related regulatory guidance, and the letter from Chairman Meserve to Entergy Operations, Inc., dated May 11, 2001, is that the use of an external sinking fund is one of several methods for providing reasonable assurance that adequate decommissioning funding will be available to pay decommissioning costs at the expected time of termination of operation of a nuclear plant. Funding of the external sinking fund is to be based on the licensed life of the plant. The effect of potential life extension in decommissioning funding calculations is not to be credited unless and until the licensee has actually received an approved license extension. Only then can reasonable assurance be based on a potential life beyond the initial licensed life, and only then can the funding of the sinking fund be altered based on an assumed life extension. As indicated in my letter to Chairman Meserve dated March 26, 2001, the Arkansas Public Service Commission has ordered a deviation from this requirement in the case of Arkansas Nuclear One, Unit 2, and the Louisiana Public Service Commission may soon follow suit in the case of River Bend. Our question is: What is the NRC's approach to a situation where a rate regulator has ordered a schedule for decommissioning collections for an external sinking fund that appears to conflict with applicable federal regulations?
2. What assumptions and calculations are acceptable to the NRC to meet the reasonable assurance requirement that adequate decommissioning funding will be available at the end of plant life? If the 2% real rate of return on decommissioning funds prescribed by 10 C.F.R. §50.75(e)(1)(ii) is used, the results can obviously be

Decommissioning Funding Questions
July 25, 2002
CNRO-2002-00044
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dramatically different than if other methods and assumptions are used. Likewise, if a rate regulator issues an order to *curtail* collection of funding needed to support the sinking fund approach, is it valid to assume that increased rates of return can be used to justify this decision? If the same rate regulator's decision is based on an assumption that the sinking fund funding, once curtailed, may be resumed later in the current licensed life, and such decision is counting on a license and life extension to provide reasonable assurance of adequate funding, is this decision consistent with NRC regulations where a license extension has not yet been approved?

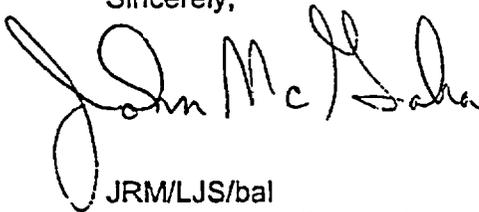
In our telephone conversation of July 17, we agreed on the following course of action:

1. Your staff will work with mine on communicating a common understanding of the above questions.
2. The NRC will schedule a meeting to review/discuss the NRC Staff's position on these questions. Appropriate stakeholders, including state public service commission staffs, would be notified of the meeting to ensure that all interested parties can participate in the discussions.

I look forward to attending the meeting described above and to resolving our concerns on how to comply with the NRC's regulations on decommissioning funding.

If we can provide you with any additional information, please contact Mr. Jager Smith at 601-368-5572. Thank you for your attention to this important matter.

Sincerely,



JRM/LJS/bal

cc: See next page

Decommissioning Funding Questions

July 25, 2002

CNRO-2002-00044

Page 3 of 3

cc: Mr. C. G. Anderson (N-GSB)
Mr. J. L. Blount (M-ECH-62)
Mr. W. A. Eaton (G-ESC-VPNO)
Mr. P. D. Hinnenkamp (R-GSB-40)
Mr. N. S. Reynolds (W&S)
Mr. L. Jager Smith (Wise, Carter)
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Mr. G. A. Williams (M-ECH-579)

Mr. James M. Field, Chairman, Louisiana PSC
Ms. Sandra L. Hochstetter, Chairman, Arkansas PSC

Mr. T. W. Alexion, NRC Project Manager, (ANO-2)
Mr. D. H. Jaffe, NRC Project Manager, (GGNS)
Mr. N. Kalyanam, NRC Project Manager, (W-3)
Mr. E.W. Merschoff, NRC Administrator, Region IV
Mr. W. D. Reckley, NRC Project Manager, (ANO-1)
Mr. M. K. Webb, NRC Project Manager, (RBS)