

May 18, 2004 (4:52PM)

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD**

**OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF**

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In the Matter of

Docket No. 70-3103

Louisiana Energy Services, L.P.  
National Enrichment Facility

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**REPLY BY  
NUCLEAR INFORMATION AND RESOURCE SERVICE  
AND  
PUBLIC CITIZEN  
TO ANSWER OF LOUISIANA ENERGY SERVICES, L.P.  
TO  
NEW MEXICO ATTORNEY GENERAL'S  
MOTION FOR EXTENSION OF TIME**

In accordance with the May 10, 2004 order by the Licensing Board, Petitioners Nuclear Information and Resource Service and Public Citizen ("Petitioners") reply herein to the Answer filed by Louisiana Energy Services, L.P. ("LES") on May 7, 2004 to the New Mexico Attorney General's Motion for Extension of Time, filed on May 5, 2004.

The matter in dispute is certain allegedly proprietary information of Urenco which supports LES's estimates of the cost of converting and disposing of depleted UF<sub>6</sub>. The subject is of concern to Petitioners, who wish to obtain additional information on the cost estimates offered by LES.

LES has used four sources to develop a cost estimate of \$5.50 per kg/U for deconversion and disposal of DUF<sub>6</sub> (ER 4.13.3.1.6; SAR 10.3):

1. The 1997 study by Lawrence Livermore National Laboratory ("LLNL Report").

2. The August 2002 contract between Uranium Disposition Services, Inc. ("UDS") and the U.S. Department of Energy ("DOE").
3. Urenco information on conversion and disposition of  $\text{DUF}_6$ .
4. Cost data supplied by LES to the Commission in 1993 in the Claiborne Enrichment Center proceeding.

Item 3—the Urenco data—is withheld as proprietary. Each of the other data sources is in some respect questionable:

**LLNL Report:** From the total project cost estimates contained in the LLNL Report, LES calculates per-kg/U cost of \$5.06 to \$5.81 (ER 4.13-15 through 4.13-18; Tables 4.13-2 through 4.13-5). LES chooses to employ the figure \$5.05 (ER Table 4.13-7). However, the LLNL report includes sensitivity calculations, showing that to reduce the throughput of deconversion and disposal facilities to a rate approximating LES's needs achieves only small reductions in total project cost (LLNL Report, Tables 6.4, 6.11). Thus, LES's use of a per-kg/U cost based on the total costs calculated by LLNL for a high-volume project is highly questionable, when the per-kg/U cost is applied to a low-volume project, as LES has done.

**UDS contract:** LES calculates that the per-kg/U cost of deconversion and disposal under the UDS contract will be \$3.92. (ER 4.13-18; Table ER 4.13-6). This figure employs a government cost of capital of 6% and assumes that disposal will take place at a DOE facility, such as Nevada Test Site, at a cost that LES estimates at \$0.11 to \$0.15 per kg/U. (ER 4.13-18). Given the special circumstances of a government contract, Petitioners submit that the UDS contract data are not comparable to a private sector contract with an uncertain throughput. It should be noted that ER Table 4-13.7 lists certain of the UDS contract data as "proprietary or not made available."

**Urenco data:** Urenco has contracted for deconversion and disposal of DUF<sub>6</sub> since 1984 at a price which it declines to disclose. (ER 4.13-19; Table 4.13-7).

**Claiborne estimate:** LES states that in 1993 Cogema quoted a conversion cost of \$4.00 per kg/U, and Urenco quoted a disposal cost of \$1.00 per kg/U (ER 4.13-19). Escalated to 2002 dollars, the figures are \$4.93 and \$1.47. (ER Table 4.13-7). With transportation cost of \$0.34 added, the total cost is \$6.74. It should be noted that in 1997 the Licensing Board in the Claiborne proceeding found that the deconversion cost estimate of \$4.86 per kg/U (a figure that may be equivalent to the \$4.93 conversion cost used by LES in this case) was not a reasonable estimate, because it did not include the cost of neutralizing the HF byproduct. In re *Louisiana Energy Services, L.P.* (Claiborne Enrichment Center), LBP-97-3, 45 NRC 99, 115-16 (1997).

In its application in this proceeding LES determines that the average of three cost figures—\$5.05, \$3.92, and \$6.74—is \$5.24. LES “selects” \$5.50 as the disposal cost. (ER Table 4.13-7).

Petitioners submit that the estimate of \$5.50 is derived from questionable data and is not entitled to credit. Under these circumstances, it becomes important to obtain all possible valid data to develop credible cost figures. If the Urenco cost data, currently withheld as proprietary, can be disclosed and necessary adjustments made to apply the figures to U.S. market conditions, the basis for valid decommissioning cost estimates may emerge.

This morning Petitioners’ counsel received from counsel for LES a copy of portions of the contract between DOE and UDS. There has not been time to study this document. Counsel for Petitioners understands from the Answer filed by LES to the New Mexico Attorney General’s Motion for Extension of Time on May 7, 2004 (at 2) that LES has made available any information that LES has concerning the terms of the DOE-UDS agreement. LES counsel’s

cover letter, addressed to the New Mexico Attorney General's Office, states: "LES will endeavor to make available to you as early as possible the proprietary information relied on by LES to confirm the validity of the cost of depleted uranium hexafluoride disposal, subject to the entry of an appropriate protective order."

Counsel for Petitioners request that the Urenco information in question be made available by LES to all participants pursuant to a protective order authorizing its use by counsel, consultants, expert witnesses, and persons assisting them or to Commission personnel.

### **Conclusion**

Petitioners request that the Licensing Board enter a protective order, applicable to all participants in this proceeding, directing that proprietary data of Urenco made available to participants be used only for the purposes of this proceeding and be disclosed only among such participants and their counsel, consultants, expert witnesses or persons assisting them or to personnel of the Commission.

Respectfully submitted,



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May 11, 2004

## CERTIFICATE OF SERVICE

Pursuant to 10 CFR § 2.305 the undersigned attorney of record certifies that on May 11, 2004, the foregoing Reply by Nuclear Information and Resource Service and Public Citizen to Answer of Louisiana Energy Services, L.P. to New Mexico Attorney General's Motion for Extension of Time was served by electronic mail and by first class mail upon the following:

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