

RAS 8390

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

DOCKETED 08/31/04

SERVED 08/31/04

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Paul B. Abramson
Dr. Anthony J. Baratta

In the Matter of

SYSTEM ENERGY RESOURCES, INC.

(Early Site Permit for Grand Gulf ESP Site)

Docket No. 52-009-ESP

ASLBP No. 04-823-03-ESP

August 31, 2004

NOTICE OF HEARING
(Application for Early Site Permit)

This proceeding concerns the October 16, 2003 application of System Energy Resources, Inc., (SERI) for a 10 C.F.R. Part 52 early site permit (ESP). The ESP application seeks approval of the site of the existing Grand Gulf nuclear power station in Claiborne County, Mississippi, for the possible construction of one or more new nuclear reactors. In response to a January 7, 2004 notice of hearing and opportunity to petition for leave to intervene regarding the SERI ESP application (69 Fed. Reg. 2636 (Jan. 16, 2004)), on February 12, 2004, the National Association for the Advancement of Colored People (Claiborne County, Mississippi Branch), Nuclear Information and Resource Service, Public Citizen, and the Mississippi Chapter of the Sierra Club (collectively Grand Gulf Petitioners) filed a request for hearing and petition to intervene contesting the SERI ESP application, which they supplemented on February 17, 2004. Subsequently, the petitions were referred by the Commission to the Atomic Safety and Licensing Board Panel to conduct any subsequent adjudication. (See CLI-04-08, 59 NRC 113, 118-19 (2004).) On March 22, 2004, a three-member Atomic Safety and Licensing Board was established to adjudicate this ESP proceeding. (See 69 Fed. Reg. 15,911 (Mar. 26, 2004).)

On June 21-22, 2004, the Board conducted a two-day initial prehearing conference at the NRC's Rockville, Maryland headquarters facility during which it heard oral presentations regarding the standing of the ESP petitioners and the admissibility of their seven proffered contentions. Thereafter, in an August 6, 2004 issuance the Board noted that although the petitioners had established the requisite standing to intervene in this proceeding, they had failed to submit at least one admissible contention concerning the SERI ESP application so that none of them can be admitted as a party to this proceeding. (System Energy Resources, Inc. (Early Site Permit for Grand Gulf ESP Site), LBP-04-19, 60 NRC __ (Aug. 6, 2004).)

Although this proceeding is now uncontested, as was indicated in the January 2004 notice regarding the SERI ESP application, 69 Fed. Reg. at 2636, and in accordance with the agency's regulations in 10 C.F.R. Part 52, the Licensing Board is to determine if (1) the application and the record of the proceeding contain sufficient information and the review of the application by the NRC staff has been adequate to support a negative finding on the issue of whether issuance of an ESP will be inimical to the common defense and security or to the health and safety of the public (Safety Issue 1); (2) an affirmative finding can be made on the issue of whether, taking into consideration the site criteria contained in 10 C.F.R. Part 100, a reactor or reactors having characteristics that fall within the parameters for the site, can be constructed and operated without undue risk to the public health and safety (Safety Issue 2); and (3) the review conducted by the Commission pursuant to the National Environmental Policy Act of 1969 (NEPA) has been adequate. Additionally, in accord with the January 2004 notice, the Board is to (1) determine whether the requirements of NEPA sections 102(2)(A), (C), and (E) and 10 C.F.R. Part 51, Subpart A, have been complied with in the proceeding; (2) independently consider the final balance among conflicting factors contained in the record of proceeding with a view to determining the appropriate action to be taken; and (3) determine, after considering reasonable

alternatives, whether a license should be issued, denied, or appropriately conditioned to protect environmental values.

This proceeding will be conducted in accordance with the procedures in 10 C.F.R. Part 2, Subparts C and L (10 C.F.R. §§ 2.300-.390, 2.1200-.1213). During the course of the proceeding, the Board may conduct an oral argument, as provided in 10 C.F.R. § 2.331, may hold additional prehearing conferences pursuant to 10 C.F.R. § 2.329, and may conduct evidentiary hearings in accordance with 10 C.F.R. §§ 2.327-.328, 2.1207. The public is invited to attend any oral argument, prehearing conference, or evidentiary hearing. Notices of those sessions will be published in the Federal Register and/or made available to the public at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and through the NRC web site, www.nrc.gov.

Additionally, as provided in 10 C.F.R. § 2.315(a), any person not a party to the proceeding may submit a written limited appearance statement. Limited appearance statements, which are placed in the docket for the hearing, provide members of the public with an opportunity to make the Board and/or the participants aware of their concerns about matters at issue in the proceeding. A written limited appearance statement can be submitted at any time and should be sent to the Office of the Secretary using one of the methods prescribed below:

Mail to: Office of the Secretary
Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax to: (301) 415-1101 (verification (301) 415-1966)

E-mail to: hearingdocket@nrc.gov

In addition, a copy of the limited appearance statement should be sent to the Licensing Board Chairman using the same method at the address below:

Mail to: Administrative Judge G. Paul Bollwerk, III
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax to: (301) 415-5599 (verification (301) 415-7550)

E-mail to: gpb@nrc.gov

At a later date, the Board may entertain oral limited appearance statements at a location or locations in the vicinity of the proposed Grand Gulf ESP site. Notice of any oral limited appearance sessions will be published in the Federal Register and/or made available to the public at the NRC PDR and on the NRC website, www.nrc.gov.

Documents relating to this proceeding are available for public inspection at the Commission's PDR or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at www.nrc.gov/reading-rm/adams.html (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in

ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

It is so ORDERED.

FOR THE ATOMIC SAFETY*
AND LICENSING BOARD

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

August 31, 2004

* Copies of this notice of hearing were sent this date by Internet e-mail transmission to counsel for (1) applicant SERI; (2) the Grand Gulf Petitioners ; and (3) the NRC staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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SYSTEM ENERGY RESOURCES, INC.) Docket No. 52-009-ESP
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB NOTICE OF HEARING (APPLICATION FOR EARLY SITE PERMIT) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

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Washington, DC 20555-0001

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Docket No. 52-009-ESP
LB NOTICE OF HEARING (APPLICATION FOR
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& Eisenberg, L.L.P.
1726 M Street, NW, Suite 600
Washington, DC 20036

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 31st day of August 2004