

June 17, 2005

Ms. Tam Katzin
4762 Whitworth Place South, P-102
Renton, WA 98055-8359

Dear Ms. Katzin:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to a letter dated May 20, 2005, from Representative Adam Smith, in which he requested that we respond directly to you regarding our review of the Louisiana Energy Services' (LES') license application for a gas centrifuge uranium enrichment plant. In Representative Smith's letter, he requested that we provide: 1) an update on the status of LES' request for a license; 2) which company will be building and managing the New Mexico plant should the license be approved; and 3) evidence of NRC's efforts to evaluate the national security risk in building the facility.

On December 13, 2003, LES submitted a license application for the construction and operation of a gas centrifuge uranium enrichment facility to be located in Lea County, New Mexico, near the city of Eunice. In reviewing the application, the NRC determines if the facility will be built and operated to meet the NRC's regulations which are promulgated to ensure adequate protection of public health and safety and the environment. The NRC documents its safety and security reviews in a Safety Evaluation Report (SER) and documents its environmental review in an Environmental Impact Statement (EIS). The NRC staff's safety, security, and environmental reviews have been ongoing since the application was received in December 2003. The staff completed its review and issued the SER and EIS on June 14, 2005.

On January 30, 2004, the Commission issued an order initiating a licensing proceeding for LES. This Commission order was issued to implement the new 10 CFR Part 2 hearing procedures and a 30-month schedule for making a final Agency determination. The order also offered an opportunity for the public to petition the NRC to participate in the hearing, and addressed several policy issues related to licensing a uranium enrichment facility. By "hearing," the NRC is referring to a formal adjudicatory (trial-type) process before the Atomic Safety and Licensing Board Panel (ASLBP), composed of three administrative law judges. Three parties were granted standing to participate in the licensing proceeding: (1) the New Mexico Environment Department; (2) the New Mexico Attorney General; and (3) the Nuclear Information and Resource Service and Public Citizen (NIRS/PC) (combined petition). In February 2005, the ASLBP completed evidentiary hearings on four contentions from the NIRS/PC relating to the staff's Draft Environmental Impact Statement (DEIS) which was issued in September 2004. On June 8, 2005, the Board issued an initial decision resolving those contentions in favor of the applicant and the staff. The evidentiary hearings on the remaining contentions and mandatory

hearings are scheduled to begin in October 2005. Following completion of the hearings, the ASLBP will render decision on whether or not to grant a license to LES. That decision will be reviewed by the Commission before becoming a final Agency determination.

Additional information about the licensing of the LES facility can be found at <http://nrc.gov/materials/fuel-cycle-fac//lesfacility.html>.

If the license is approved, LES intends to build and operate the plant. LES' license application identifies the ownership as a limited partnership composed of two general partners and six limited partners. The general partners are Urenco Investments, Inc. (a wholly owned subsidiary of Urenco Limited, a corporation formed under the laws of the United Kingdom) and Westinghouse Enrichment Company, LLC (whose parent company, British Nuclear Fuels, plc, is wholly owned by the Government of the United Kingdom). The limited partners are Urenco Deelnemingen B.V; Westinghouse Enrichment Company; Entergy Louisiana, Inc.; Claiborne Energy Services, Inc. (a wholly owned subsidiary of Duke Energy Corporation); Cenesco Company, LLC (a wholly owned subsidiary of Exelon Generation Company LLC); and Penesco Company, LLC (which is also a wholly owned subsidiary of Exelon Generation Company, LLC).

As part of the NRC staff's licensing review of the LES license application, the staff is evaluating a number of safeguards and security measures. Regulatory requirements applicable to the LES facility are found in Title 10 of the Code of Federal Regulations, (10 CFR) Parts 25, 73, 74, 95, 110, and 810 (Note that 10 CFR Part 810 is a U.S. Department of Energy [DOE] regulation). These regulations provide for security clearances, physical protection of nuclear materials, nuclear material control and accounting requirements to assure that uranium is not stolen or enriched to higher levels than authorized, international safeguards, protection of classified information, and restrictions to assure centrifuge technology does not become available to other countries. The information security protection requirements are the same requirements applicable to any entity having access to classified information in the U.S.

The findings of the staff's reviews of the LES license application and related documents, including documents addressing safeguards and security issues, is documented in the staff's SER. In addition, the DOE conducted a Foreign Ownership, Control, and Influence (FOCI) review of the application. The purpose of the FOCI review is to assure that U.S. national security information is appropriately controlled. Based on these reviews, the NRC and DOE are evaluating potential national security risks associated with LES constructing and operating the proposed centrifuge enrichment facility. Before issuing a license, the NRC must determine that the licensed activity would not be inimical to the common defense and security, and would not constitute an unreasonable risk to the health and safety of the public.

Over the past 30 years, and particularly after the terrorists attack of September 11, 2001, there have been marked advances in and an increased focus on the safeguards and security of nuclear facilities and materials in the U.S. and worldwide. The NRC has a key role in assuring that any new commercial nuclear facility built in the U.S. meets stringent safeguards, security, and technology control requirements. These requirements are continually reviewed to incorporate improvements and lessons learned from regulating existing facility operations.

T. Katzin

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Thank you for your interest in this important matter, and I hope that the information provided adequately addressed your concerns. Please contact me if you have additional questions.

Sincerely,

/RA/

Luis A. Reyes
Executive Director
for Operations

cc: Representative Adam Smith

T. Katzin

Thank you for your interest in this important matter, and I hope that the information provided adequately addressed your concerns. Please contact me if you have additional questions.

Sincerely,

/RA/

Luis A. Reyes
Executive Director
for Operations

cc: Representative Adam Smith

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