

RAS 11558

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

DOCKETED 04/19/06

SERVED 04/19/06

Before Administrative Judges:

Lawrence G. McDade, Chairman
Nicholas G. Trikouros
Dr. Richard E. Wardwell

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

April 19, 2006

ORDER

(Request for Documents and Briefings)

Before the Board¹ is the 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 at the existing Grand Gulf nuclear power station in Claiborne County, Mississippi, for the possible future construction of a new nuclear power generation facility.

SERI filed its application on October 16, 2003. Thereafter, 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 (Petitioners) filed a request for hearing and petition to intervene. Based on the pleadings submitted, and after hearing argument regarding the standing of the Petitioners and the admissibility of their seven proffered contentions, the previously assigned Atomic Safety and Licensing Board determined that although Petitioners had established the requisite standing to

¹ On December 15, 2005 the Commission reconstituted the Atomic Safety and Licensing Board presiding over this matter, by appointing Administrative Judges Lawrence G. McDade, Chair, Nicholas G. Trikouros, and Richard E. Wardwell in place of Administrative Judges G. Paul Bollwerk, III, Chair, Paul B. Abramson, and Anthony J. Baratta.

intervene in this proceeding, they had failed to submit at least one admissible contention.²

Petitioners collectively appealed the Board's Order and, on January 18, 2005, the Commission affirmed the Board's rulings.³ Therefore, the only matter remaining before this Board is satisfaction of the Mandatory Hearing requirement with regard to SERI's ESP Application. 42 U.S.C. § 2235 (2000); 10 C.F.R. §§ 52.18, 52.21, 52.24.

In order to facilitate the Board's preparation for the Mandatory Hearing, the NRC Staff shall provide to the Board the following documents with the most recent revisions/amendments thereto, and summaries thereof:

- 1) Site Safety Analysis Report
- 2) Emergency Planning Information
- 3) Environmental Report
- 4) Environmental Impact Statement (EIS)
- 5) Safety Evaluation Report (SER)
- 6) NRC Staff Requests for Additional Information and SERI's replies thereto, and any written analyses of those replies that have been prepared by the NRC Staff
- 7) Minutes and/or transcripts of any Advisory Committee on Reactor Safeguards (ACRS) meetings relevant to SERI's ESP Application, and any reports, letters, or memoranda prepared by or on behalf of the ACRS which relate to SERI's ESP Application.

All of the documents provided in response to this Order shall be accompanied by an index identifying them with an ADAMS accession number if the documents are available on ADAMS and, if not, by some other appropriate identifier.

In addition to the documents stated above, the NRC Staff shall provide the Board with a narrative summary identifying all regulatory guidance documents that were used, or are being used, in its review of SERI's ESP Application. This submission shall include copies of the applicable Standard Review Plans (SRPs) and regulatory guides and shall explain in depth, referring subsection-by-subsection to the SRPs or regulatory guides, how these documents

² LBP-04-19, 60 NRC 277 (2004).

³ CLI-05-04, 61 NRC 10 (2005).

were used by the Staff in its review of SERI's ESP Application. This submission shall highlight those areas where relevant portions of the published guidance documents were not used. The NRC Staff shall explain what was done to review the ESP Application in those areas where it was not able to, or otherwise did not, follow relevant portions of the published guidance, and explain in full why the chosen course of review was followed. Additionally, this narrative shall include a summary describing the key areas of the NRC Staff's review of SERI's ESP Application (safety and environmental issues) with references to the EIS and the SER, and shall identify the particular individual who was in charge of each portion of the review. Further, to the extent not already included in response to the foregoing provisions of this Order, the NRC Staff shall attach copies of all documents referenced or discussed within the narrative summary.

If there are any additional documents the NRC Staff believes should be utilized by the Board in preparing for and conducting the Mandatory Hearing, it shall provide the Board with a list of such documents. That list should be accompanied by a brief explanation of why the NRC Staff believes that each of the listed documents is relevant and necessary to the Board's review of SERI's ESP Application and/or the findings which it must make as part of the Mandatory Hearing.

Four (4) paper copies of each requested document (and any additional documents deemed relevant by the NRC Staff), as well as the narrative summary, shall be provided to the Board on or before June 5, 2006. Unless previously bound (such as the EIS and SER), these documents shall be enclosed in three ring binders and accompanied by the previously-referenced index. The NRC Staff shall also provide to the Board one (1) electronic copy of all documents to be produced pursuant to this Order on CD or DVD. For those documents that have been requested but are not available as of June 5, 2006, the NRC Staff shall provide an estimate of when those documents will be provided to the Board. As soon as practicable, but no later than thirty (30) days after the Staff makes its submissions to the Board, SERI may file

any exceptions, additions, or objections to the NRC Staff's submission.

Absent further Order from this Board, within sixty (60) days after the submission of the narrative summary, the documents identified by this Order, and such other documents relevant to the Board's review that are identified by the NRC Staff or by SERI in response to this Order, and which are subsequently requested by the Board, the NRC Staff shall file with the Board such preliminary proposed findings of fact and conclusions of law as it deems relevant to the findings which the Board must make in the Mandatory Hearing including, but not limited to, the issues focused on by the Staff in the above-stated narrative summary.⁴ This proposal shall be annotated with explicit references to the record which support the preliminary proposed findings of fact, and such citations as the NRC Staff concludes support the preliminary proposed conclusions of law. As soon as practicable, but no later than thirty (30) days after the NRC Staff files its preliminary proposals, SERI shall submit any exceptions, additions, or objections to the NRC Staff's proposed findings of fact and conclusions of law.

⁴ If additional documents relevant to the Board's review are identified by the NRC Staff or by SERI in response to this Order and are subsequently requested by the Board, the sixty (60) day period for filing the proposed findings of fact and conclusions of law shall run from a date to be set by the Board for submission of those additional documents. Otherwise, the sixty (60) day period for filing the proposed findings of fact and conclusions of law shall run from the date of the NRC Staff's submission of the narrative summary and the documents specifically identified by this Order.

An objection to any portion of this Order, or a request for modification to or clarification of this Order shall be filed no later than May 1, 2006.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁵

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 19, 2006

⁵ Copies of this order were sent this date by Internet e-mail transmission to: (1) Counsel for SERI, and (2) Counsel for the NRC Staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (REQUEST FOR DOCUMENTS AND BRIEFINGS) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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LB ORDER (REQUEST FOR DOCUMENTS AND BRIEFINGS)

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 19th day of April 2006