Entergy

Entergy Operations, Inc.
P. O. Box 31995
Jackson, Mississippi 39286-1995
Tel 601-368-5692

Michael R. Kansler
President and
Chief Executive Officer

CNRO-2007-00023

May 29, 2007

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555

SUBJECT: Proposed License Transfer and Conforming License Amendment
In the Matter of Entergy Gulf States, Inc.
Entergy Operations, Inc.
River Bend Station
License NPP-47; Docket No. 50-458

Dear Sir or Madam:

Pursuant to 10 CFR 50.80, attached is an Application for Transfer of Operating License and Materials License, No. NPF-47, for River Bend Station, Unit 1 ("River Bend") filed on behalf of Entergy Gulf States, Inc. ("EGS") and Entergy Operations, Inc. ("EOI"). This application is being filed as a result of the proposed restructuring of EGS, the current owner and licensee of River Bend, into two separate entities, one of which will serve Entergy's customers in Texas, and one of which will serve Entergy's customers in Louisiana. The restructuring will result in the Louisiana utility owning River Bend.

The application is being submitted because the restructuring may result in a direct or indirect transfer of the NRC license for River Bend. The proposed transaction is an internal corporate restructuring, accomplished in a series of steps which will ultimately result in the merger of EGS into Entergy Gulf States Louisiana, L.L.C. ("EGS-LA"). EGS is wholly owned by Entergy Corporation. After this internal restructuring, the company into which EGS will merge, EGS-LA, will be wholly owned by EGS Holdings, Inc. which will in turn be wholly owned by Entergy Corporation. With one exception, the Managers and Officers of EGS-LA will be the same as the current Directors and Officers of EGS. The licensed operator of the plant, EOI, will remain the same, and will not change as a result of the internal restructuring.

The restructuring is being undertaken to provide increased flexibility in resource planning and to better align EGS's Texas and Louisiana operations to serve customers in those states consistent with state specific regulatory requirements.

A001

The transfer of the license will require a conforming amendment to the license to reflect the name of the new owner. A mark-up of the license with the requested changes is attached to the Application.

The proposed change does not include any new commitments. Entergy requests approval of the proposed amendment by December 3, 2007. Once approved, the amendment shall be implemented within 60 days. The attached application requests NRC consent to the transfer by September 30, 2007. Although this request is neither exigent nor emergency, your prompt review is requested.

If you should have any questions or require additional information, please contact Jerry Burford at 601-368-5755.

Sincerely,

MRK/rwb/bal

Attachment: Application for Transfer of Operating License and Materials License, NPF-47

cc: Dr. Bruce S. Mallett
U. S. Nuclear Regulatory Commission
Region IV
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011

NRC Senior Resident Inspector
River Bend Station
P. O. Box 1050
St. Francisville, LA 70775

U. S. Nuclear Regulatory Commission
Attn: Mr. Bhalchandra Vaidya - MS 0-7D1
Washington, DC 20555-0001

Wise Carter, Child & Caraway
Attn: Doug Levanway
P. O. Box 651
Jackson, MS 39205

Winston & Strawn
Attn: N. S. Reynolds
1700 K Street, NW
Washington, DC 20006-3817

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Surveillance Division
P. O. Box 4312
Baton Rouge, LA 70821-4312

American Nuclear Insurers
Attn: Library
95 Glastonbury Blvd.
Suite 300
Glastonbury, CT 06033-4443

Attachment

CNRO-2007-00023

Application for Transfers of Operating License
And Material License, NPF-47

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	Docket No.
	)	
Entergy Gulf States, Inc.,	)	
Entergy Operations, Inc.	)	
River Bend Nuclear Generating Station	)	50-458

APPLICATION FOR TRANSFERS OF OPERATING LICENSE AND MATERIALS LICENSE, NPF-47

Entergy Gulf States, Inc. ("EGS"), and Entergy Operations, Inc. ("EOI"), apply for the consent of the Nuclear Regulatory Commission ("NRC") under 10 C.F.R. 50.80 to the transfer of control of Facility Operating License and Materials License No. NPF-47 for the River Bend Station ("River Bend"). The transfer will occur as a result of the restructuring of EGS from a Texas corporation into two separate companies, Entergy Gulf States Louisiana, L.L.C. ("EGS-LA"), a Louisiana limited liability company, and Entergy Texas, Inc. ("ETI"), a Texas corporation. The restructuring, which will be accomplished in a series of steps, will culminate with EGS merging into EGS-LA. As a result, EGS-LA will own River Bend as the surviving company. EOI will continue to operate River Bend, and the proposed restructuring will not affect the technical qualifications of EOI.

1. Background and Description of Proposed Transfer

EGS is the owner of River Bend, a commercial nuclear power reactor located in St. Francisville, LA. EOI is the licensed operator of River Bend. Both EGS and EOI are direct subsidiaries of Entergy Corporation ("Entergy"). Under the proposed restructuring, which will be accomplished in a series of steps (or the functional equivalent), EGS will form ETI as a Texas corporation, the stock of which will be owned by EGS. EGS will then transfer all of its Texas assets to ETI. In the second step of the restructuring, EGS will distribute the common stock of ETI to Entergy, making ETI a wholly-owned subsidiary of Entergy. In the third step, Entergy will form a new Texas corporation, EGS Holdings, Inc. ("EGS Holdings"), of which Entergy will own all the issued and outstanding shares of common stock. Entergy will contribute all its shares of ETI to EGS Holdings. At the end of this third step, Entergy will own EGS Holdings in its entirety, and EGS Holdings will own ETI in its entirety.

In the fourth step of the restructuring, EGS Holdings will form a Louisiana limited liability company, EGS-LA. EGS Holdings will own all the issued and outstanding membership interests of EGS-LA. Finally, EGS will merge into EGS-LA, which, as the surviving entity, will own all of EGS's Louisiana assets, including River Bend, except for EGS's undivided ownership interests in Big Cajun 3, Unit 2 and the Nelson 6 coal plants, which will be jointly owned with ETI.

Once the restructuring is completed, EGS-LA will serve EGS's current retail customers in Louisiana and EGS's current wholesale customers, and ETI will serve EGS's current retail customers in Texas. EGS-LA's retail utility operations will be subject to the jurisdiction of the LPSC to the same extent that the LPSC currently possesses jurisdiction over EGS's retail utility operations. EGS-LA will succeed to and assume all of EGS's Louisiana jurisdictional tariffs and service agreements, and will provide electric service to EGS's customers in Louisiana without interruption.

EOI operates River Bend pursuant to an Operating Agreement with EGS. EOI will continue to operate River Bend and the current Operating Agreement will be amended to reflect the new owner of the plant. EOI will not be affected by the restructuring.

II. Supporting Information

A. Statement of Purpose for the Transfer and the Nature of the Transaction Necessitating or Making the License Transfer Desirable

The purpose of the proposed restructuring of EGS is to provide more flexibility in resource planning for the separated utilities and for each to be better positioned to optimize its resource planning portfolio. In addition, customers in both Texas and Louisiana will benefit because the jurisdictional allocation issues attendant to each regulatory jurisdiction will no longer exist.

In 1999, the Louisiana Public Service Commission ("LPSC") opened Docket U-21453, U-20925 (SC), U-22092 (SC) (Subdocket B) after the passage of Senate Bill No. 7 by the Texas Legislature that required all utilities operating in Texas to unbundle their operations and move to retail open access ("ROA"). EGS made numerous filings as mandated by that statute, but ultimately the Public Utilities Commission of Texas ("PUCT") voted to delay ROA in EGS's Texas service territory. EGS then determined that it should proceed to jurisdictionally separate into two vertically integrated utilities, one that will serve retail customers located in Texas and regulated solely at the retail level by the PUCT and one that will serve EGS's retail customers located in Louisiana and all of EGS current wholesale customers and regulated at the retail level solely by the LPSC. As a result, the Company filed its jurisdictional separation plan with the LPSC on April 26, 2006. On May 25, 2006, the LPSC voted to close Subdocket B and to open

Subdocket J to consider the Company's plan. On January 31, 2007 the LPSC issued a written order approving the plan ("LPSC Order") that separated EGS into two companies, each of which would serve their customers in their respective states. The LPSC found that the separation was in the public interest because it will provide increased flexibility in resource planning and the optimization of EGS-LA's resource planning portfolio. The LPSC further found that the restructuring would not disrupt operations or affect the reliability of service, and that the LPSC would retain full jurisdiction for retail ratemaking purposes over EGS-LA. The LPSC Order is provided in Attachment A.

B. Description of Business; Organization and Management

EGS-LA will be a Louisiana limited liability company. All of the Managers and principal Officers of EGS-LA will be citizens of the United States. EGS-LA will not be owned, controlled or dominated by an alien, foreign corporation, or foreign government. Neither EGS-LA nor EOI is acting as a representative of any other person in this request.

The proposed Managers and principal Officers of EGS-LA, all of whom are citizens of the United States, will be the same as the current Directors and Officers of EGS, with the exception of Joseph F. Domino, who will be a Director and the President and Chief Executive Officer of ETI. The proposed Managers and principal Officers of EGS-LA will be as follows:

Managers:

E. Renae Conley, Chairman
Leo P. Denault
Mark Savoff
Gary J. Taylor

Officers:

E. Renae Conley, President and Chief Executive Officer
Gary J. Taylor, Group President, Utility Operations
Robert D. Sloan, Executive Vice President, General Counsel and Secretary
Joseph T. Henderson, Senior Vice President and General Tax Counsel
Nathan E. Langston, Senior Vice President and Chief Accounting Officer
Terry Seamons, Senior Vice President-Human Resources and Administration
Jay A. Lewis, Vice President, Chief Financial Officer-Operating
Murphy A. Dreher, Vice President, State Governmental Affairs
T. Michael Twomey, Vice President, Regulatory Affairs
Steven C. McNeal, Jr., Vice President and Treasurer
P.J. Martinez, Vice President, Operations

EGS Holdings will be a Texas corporation. It will not be owned, controlled, or dominated by an alien, foreign corporation, or foreign government. The Directors and principal Officers of EGS Holdings have not been determined at this time. They will all be citizens of the United States.

The Directors and principal Officers of EOI will not be changed as a result of the restructuring of EGS. Changes are being made to some of the principal Officers of EOI as a result of an internal realignment that has no connection to the license transfer. When those changes are final, the names of the Directors and principal Officers of EOI will be submitted as supplemental information. The Directors and principal Officers of EOI will all be citizens of the United States.

C. Technical Qualifications

EOI will continue to operate River Bend as the licensed operator after the restructuring of EGS into EGS-LA. The proposed restructuring involves no change to either the management organization or technical personnel currently responsible for operating River Bend. The technical support organization for the facility will also be unchanged as a result of the restructuring. The personnel presently employed by EOI will not be affected by the restructuring and it will have no impact on their ability to continue to safely operate River Bend. There will be no change to the existing Security or Emergency Preparedness Plans or to the personnel responsible for these functions. Therefore, the technical qualifications of EGS-LA and EOI to carry out their responsibilities under Operating License and Materials License NPF-47 will remain unchanged and will not be adversely affected by the proposed restructuring.

D. Financial Qualifications.

EGS currently recovers the costs of operating and maintaining River Bend through rates established by the LPSC, the Public Utilities Commission of Texas ("PUCT"), and the Federal Energy Regulatory Commission ("FERC"). In the restructuring, EGS will merge into EGS-LA and EGS-LA will be the surviving entity. EGS-LA will own the regulated seventy percent (70%) portion of River Bend, as well as the "unregulated" thirty percent (30%) portion formerly owned by Cajun Electric Cooperative, Inc. ETI will purchase its "responsibility ratio[1]" portion of the capacity and energy of the regulated portion of River Bend via a life-of-unit PPA

[1] The ETI responsibility ratio will be based on the twelve-month coincident peak demands of the ETI retail load and the EGS-LA responsibility ratio will reflect the Louisiana retail and all EGS's wholesale loads. These responsibility ratios will be calculated consistent with the definition contained in Section 2.16(a) of the Entergy System Agreement.

priced pursuant to the System Agreement Service Schedule MSS-4 ("MSS-4").[2] A copy of the PPA is provided in Attachment B.

The proposed restructuring will in no way impair or affect the recovery of River Bend costs. After restructuring, the LPSC will continue to regulate the rates and services rendered to the customers of EGS-LA subject to its jurisdiction just as it does today. The recovery of River Bend costs reflected in LPSC-approved rates will continue to be subject to recovery via LPSC-approved rates. After restructuring, the PUCT will continue to regulate the rates and services rendered to the customers of ETI subject to its jurisdiction, just as it does today. The portion of River Bend currently reflected in PUCT-approved rates will be billed to ETI pursuant to MSS-4, and will continue to be subject to recovery at retail via PUCT-approved rates.[3]

Because it will recover the costs of retail generation from River Bend through rates established by regulatory agencies, EGS-LA will be an "electric utility" as defined in 10 C.F.R. §50.2. As an "electric utility," it is exempt from financial qualifications review under 10 C.F.R. §50.33(f) and a financial qualification review is therefore not required.

E. Decommissioning Funding.

The proposed restructuring will not result in any changes to the existing mechanisms that provide financial assurance for decommissioning River Bend. EGS-LA will continue to provide decommissioning funding through an external sinking fund. Funds for

[2] MSS-4 is a FERC approved tariff that provides the basis for making a unit power purchase between Operating Companies. The pricing pursuant to MSS-4 is based on cost.

[3] The capacity and energy associated with the "unregulated" 30% portion of River Bend are subject to life-of-unit Power Purchase Agreements ("PPAs") with Entergy Louisiana, LLC ("ELL") and Entergy New Orleans, Inc. ("ENO"), priced pursuant to Service Schedule MSS-4. The terms of these PPAs will be unaffected by the restructuring and the costs associated with the "unregulated" 30% share of River Bend will continue to be recovered by EGS-LA via the PPAs.

decommissioning will continue to be collected as needed through rates established by the LPSC and payments to EGS-LA from ETI under the MSS-4 PPA, and held in a trust established for the purpose of decommissioning the plant. The amount of funds held by the decommissioning trust will not change as a result of the license transfer. There will be no changes to the existing Trust Agreements other than an amendment to reflect the new owner.

F. Antitrust Considerations.

The NRC has found that antitrust reviews of post-operating license transfer applications are neither required nor authorized by the Atomic Energy Act. Final Rule, Antitrust Review Authority; Clarification, 65 Fed. Reg. 44,649 (July 19, 2000); See also Kansas Gas and Electric Co. (Wolf Creek Generating Station, Unit 1), CLI-99, 49 NRC 441 (1999).

G. Restricted Data

This application does not contain any Restricted Data or other classified defense information, and it is not expected that any such information will become involved in the licensed activities. In the event that licensed activities do involve Restricted Data in the future, the Licensees will appropriately safeguard such information and will not permit any individual to have access to Restricted Data until the Office of Personnel Management shall have made an investigation and reported to the NRC on the character, associations, and loyalty of the individual, and the NRC has determined that permitting such persons to have access to Restricted Data will not endanger the common defense and security of the United States.

H. No Environmental Impact

The transfer described in this application does not involve any change to the nuclear plant operations or equipment of the plant and does not change any environmental impact previously evaluated. Furthermore, the NRC has determined that license transfers and any associated amendments are categorically exempt from environmental review. 10 C.F.R. 51.22(c)(21). This application, therefore, involves no significant environmental impact.

I. Conforming License Amendments

The restructuring of EGS into EGS-LA will require changes to the existing license to reflect the new owner. The NRC is requested to approve an amendment to the license to reflect the new owner. Attachment C contains the requested changes.

J. Other Required Regulatory Approvals

The proposed restructuring will require approval by the LPSC and the Federal Energy Regulatory Commission. The LPSC's Order authorizing and approving the restructuring is provided in Attachment A.

III. Effective Date

Assuming the receipt of all required regulatory approvals, the proposed restructuring is scheduled to take place by December 31, 2007. Therefore, the NRC is requested to review this application on a schedule that will permit the NRC to provide its final consent to the license transfer as promptly as possible, but in no event later than September 30, 2007. It is requested that the consent of the NRC be immediately effective upon issuance.

IV. Conclusion

For the foregoing reasons, the NRC is requested to consent to the transfers of Operating License and Materials License NPF-47 that will result from the restructuring of EGS into EGS-LA.

Michael Kansler
President and Chief Executive Officer of
Energy Operations, Inc.

T. Michael Twomey
Vice President, Regulatory Affairs
Entergy Gulf States, Inc.

State of Mississippi
Hinds County

Then personally appeared before me, Michael Kansler, who being duly sworn, did state that he is President and Chief Executive Officer of Entergy Operations, Inc., that he is duly authorized to execute and file the submittal contained herein, in the name and on behalf of the above-named company, and that the statements attributable to Entergy Operations, Inc. are true to the best of his knowledge and belief.

Subscribed and sworn to before me this 22nd day of May.

Amy A. Blaylock
Notary Public

My Commission Expires:

Notary Public State of Mississippi At Large
~~My Commission Expires: June 17, 2009~~
Bonded Thru Heiden, Brooks & Garland, Inc.

State of Louisiana

__________ Parish

Then personally appeared before me, T. Michael Twomey, who being duly sworn, did state that he is Vice President, Regulatory Affairs for Entergy Gulf States, Inc., that he is duly authorized to execute and file the submittal contained herein, in the name and on behalf of the above-named company, and that the statements attributable to the above-named company are true to the best of his knowledge and belief

Subscribed and sworn to before me this 21st day of May 2007.

Alyssa A. Maurice

Notary Public

Alyssa A. Maurice La. Bar No. 28388
Notary Public for the State of Louisiana
My Commission Issued for Life

My Commission Expires:

Application for Transfers of Operating License
And Material License, NPF-47

Attachment A
Louisiana Public Service Commission
January 31, 2007 Order

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NOS. U-21453, U-20925 AND U-22092
(SUBDOCKET-J)

In re: Request for the Approval of the Jurisdictional Separation Plan for Entergy Gulf States, Inc.

(Decided at Open Session held January 17, 2007)

I. INTRODUCTION

This proceeding arises out of the Application of Entergy Gulf States, Inc. for Authorization to Implement the Jurisdictional Separation Plan filed on April 26, 2006 pursuant to the Rules of Practice and Procedure of the Louisiana Public Service Commission and the Commission's General Order of March 18, 1994[1] ("1994 General Order") and the related General Orders of June 7, 1968, and June 16, 1953. Implementation of the Company's Jurisdictional Separation Plan (the "JSP" or the "Plan") will result ultimately in the jurisdictional separation of EGS into two vertically integrated utilities, EGS-LA and EGS-TX.[2] In addition, as part of the JSP, EGS-LA will become a Louisiana Limited Liability Company ("L.L.C.") and will no longer be subject to the payment of Louisiana corporate franchise tax.

II. DESCRIPTION OF EGS

EGS is a public utility organized under the laws of Texas doing business in the State of Louisiana and the State of Texas. EGS provides retail electric service to approximately 354,682 customers in 18 of the 64 parishes of the State of Louisiana and wholesale electric service to three customers in the State of Louisiana. EGS also provides retail natural gas service in the Parish of East Baton Rouge. In addition, EGS provides retail electric service to approximately 377,146 customers and wholesale electric service to seven customers in the State of Texas. EGS owns electric generating stations and has capacity under contract having a maximum generating capability of 6,842 megawatts available to meet its retail load. The Company's electric system includes approximately 5,186 miles of transmission lines (69 kilovolt and higher).

EGS is a wholly owned subsidiary of Entergy Corporation ("Entergy"), a public utility holding company. In addition to EGS, the Entergy "System" includes four other public utility

[1] General Order, *In re: Commission Approval Required of Sales, Leases, Mergers, Consolidations, Stock Transfers, and All Other Changes of Ownership or Control of Public Utilities Subject to Commission Jurisdiction*, dated March 18, 1994.

[2] The name of each of the newly formed entities has not been finalized at this time. However, for purposes of this proceeding and this Order, they are referred to as EGS-LA and EGS-TX.

operating company subsidiaries that provide utility services in portions of Arkansas, Louisiana, and Mississippi. The other Entergy Operating Companies are: Entergy Arkansas, Inc. ("EAI"); Entergy Louisiana, LLC ("ELL"); Entergy Mississippi, Inc. ("EMI"); and Entergy New Orleans, Inc. ("ENO"). Entergy Services, Inc. ("ESI") is an affiliated service company of EGS and provides certain services at cost to EGS and the other Entergy Operating Companies.

EGS and the other Entergy Operating Companies are parties to the Entergy System Agreement. The Entergy System Agreement is a Federal Energy Regulatory Commission ("FERC") – approved rate schedule, which provides the contractual basis for the continued planning, construction, and operation of the electric generation, transmission and other facilities of the Entergy Operating Companies in such a manner as to achieve economies consistent with the highest practicable reliability of service, subject to financial considerations, reasonable utilization of natural resources and minimization of the effect on the environment. It also provides a basis for equalizing among the Entergy Operating Companies any imbalance of costs associated with the construction, ownership and operation of such facilities as are used for the mutual benefit of all the Entergy Operating Companies.

III. SUMMARY OF THE COMPANY'S JURISDICTIONAL SEPARATION PLAN

The JSP will separate EGS into two vertically integrated utilities: EGS-LA and EGS-TX. EGS-LA will serve EGS's retail customers located in the State of Louisiana and EGS's wholesale customers located in the State of Louisiana and the State of Texas. EGS-LA will be regulated at the retail level solely by the Louisiana Public Service Commission ("LPSC" or the "Commission"). EGS-TX will serve EGS's retail customers located in the State of Texas and will be regulated at the retail level solely by the Public Utility Commission of Texas ("PUCT"). This restructuring of EGS will be accomplished in a series of steps that ultimately will result in the separated Louisiana utility becoming an L.L.C.

The JSP will result in the creation of two separate and vertically integrated utilities that will facilitate Texas- and Louisiana-specific resource acquisitions. The Company requested authority to implement its JSP because it believes that EGS's Louisiana and Texas customers could benefit from generation resource acquisitions tailored to their specific needs. The Commission Staff shares this view.

The Company identified several principles that guided the development of its JSP. The first principle was that the plan should be reasonably consistent with the jurisdictional cost allocation process used in rate proceedings if such consistency was practical to achieve. The second principle was that of cost causation. That is, EGS's Louisiana customers and Texas customers should each bear the costs of providing electric service to them. The third principle that guided the plan's development was that the JSP should balance the interests of all stakeholders.

To accomplish the jurisdictional separation in accordance with these principles, the Company's JSP provides that the Company's assets and liabilities will be separated as follows.

A. Transmission and Distribution

EGS's transmission and distribution assets (and related liabilities) will be separated at the state line on a situs basis, *i.e.*, EGS's transmission and distribution assets situated in Louisiana will be owned by EGS-LA and EGS's transmission and distribution assets situated in Texas will be owned by EGS-TX.

The separation of EGS's transmission assets based on situs ensures that the LPSC will have applicable retail regulatory authority over the transmission assets of EGS-LA, and the PUCT will have applicable retail regulatory authority over the transmission assets of EGS-TX. Accordingly, the situs separation provides the individual retail regulatory commissions greater flexibility and authority to pursue arrangements tailored to the needs of its particular customers.

The separation of EGS's distribution assets based on situs maintains the *status quo*, whereby EGS's Louisiana customers are allocated the capital costs associated with EGS's distribution assets located in Louisiana, as well as the operating expenses associated with EGS's Louisiana distribution operations.

B. Generation Facilities

EGS's generation capacity and assets (and related liabilities) will be separated by generating and supporting facilities and by purchased power contract. The EGS ownership interests in the coal-fired generating facilities and in Southern Gulf Railway, a wholly-owned subsidiary of EGS, will be jointly owned by EGS-LA and EGS-TX. The gas/oil fired and nuclear (River Bend) generating facilities will be separated and discretely owned by EGS-LA and EGS-TX based on situs. Varibus, a wholly-owned subsidiary of EGS, will be owned by EGS-LA. The gas/oil fired generating facilities will be subject to the use of Power

Purchase Agreements ("PPAs") to allocate a responsibility ratio share of the capacity and costs of these facilities between EGS-LA and EGS-TX until retail open access is implemented for EGS-TX in Texas or until the unit is no longer dispatched by the System.

Under the Company's Plan, EGS-LA will own the regulated seventy percent (70%) portion of the River Bend nuclear generating station, as well as the unregulated thirty percent (30%) portion. EGS-TX will purchase its responsibility ratio[3] portion of the capacity and energy of the regulated portion of River Bend via a life-of-unit PPA priced pursuant to the System Agreement Service Schedule MSS-4 ("MSS-4").

The present EGS ownership interests in the coal-fired generating facilities, Nelson 6 and Big Cajun 2, Unit No. 3, will be separated between and jointly owned by EGS-LA and EGS-TX in proportion to their responsibility ratios. Following jurisdictional separation, EGS-LA will be the operator of Nelson 6, and NRG, which is not affiliated with EGS or Entergy, will continue to operate Big Cajun 2, Unit No. 3. EGS-LA and EGS-TX both will become parties to the Nelson 6 and Big Cajun 2, Unit No. 3 Joint Ownership and Participation Operating Agreements ("JOAs"). In addition, EGS-LA and EGS-TX will enter into a Joint Ownership Billing Process Agreement ("JOBPA") to govern the billing of Nelson 6 costs by EGS-LA to EGS-TX. The JOBPA will specify how EGS-TX's share of Nelson 6 costs will be determined and ensure that EGS-TX will pay its appropriate share of all operating costs, including overhead costs

The Company's JSP separates the gas/oil fired generating facilities on a situs basis with PPAs. Thus, EGS-LA will own the gas/oil fired units at the Roy S. Nelson Stations, Louisiana Station No. 2, and the Willow Glen units and will sell to EGS-TX a portion of those units' capacity and energy equal to the EGS-TX responsibility ratio priced pursuant to MSS-4. EGS-TX will own the units at the Lewis Creek and Sabine stations and will sell to EGS-LA a portion of those units' capacity and energy equal to the EGS-LA responsibility ratio priced pursuant to MSS-4. Each gas PPA will terminate upon the implementation of retail open access in EGS's Texas service territory or when the unit is no longer being dispatched by the System.

Under the Company's JSP, EGS-LA would be the sole purchaser of the Perryville capacity and energy from ELL and would sell to EGS-TX its responsibility ratio share of the

[3] The EGS-TX responsibility ratio will be based on the twelve-month coincident peak demands of the EGS-TX retail load and the EGS-LA responsibility ratio will reflect the Louisiana retail and all EGS's wholesale loads. These responsibility ratios will be calculated consistent with the definition contained in Section 2.16(a) of the Entergy System Agreement. Such load responsibility shall be calculated for the most recent twelve months that pre-dates the actual separation by three months. These responsibility ratios are sometimes hereinafter referred to as "load ratios."

Perryville capacity and energy pursuant to a PPA priced pursuant to MSS-4. This PPA between EGS-LA and EGS-TX would terminate upon implementation of retail open access in the EGS-TX Texas retail service territory, at which point EGS-LA would purchase the full EGS 75% share of the Perryville output.

Finally, EGS-LA and EGS-TX will be substituted for EGS as parties to the Toledo Bend PPA with the capacity and related costs allocated using a load responsibility ratio basis.

A tabular summary of the JSP's separation of EGS's generation capacity and assets is attached as Appendix 1 to this Order.

C. Steam and Gas

Under the Company's Plan, the EGS steam and retail gas distribution operations, which are located in Louisiana, will be owned by EGS-LA. [EGS Ex. 10 (May Direct Test.) at 13.]

D. Other Components

There are two other substantial components of the JSP that should be highlighted. First, EGS-LA will retain the entirety of the EGS debt, subject to the utilization of a Debt Assumption Agreement ("DAA") pursuant to which EGS-TX will assume an allocated share of EGS's long-term debt. Second, the Company has proposed the accounting methodology for separating EGS's balance sheet assets and liabilities between EGS-LA and EGS-TX in the form of a Balance Sheet Model. The Company filed its proposed methodology and the Balance Sheet Model with the Direct Testimony of Mr. Lee W. Randall. For illustrative purposes, the Company applied the Balance Sheet Model to the EGS Balance Sheet as of December 31, 2003. The resulting illustrative balance sheets for EGS-LA and EGS-TX were included as Exhibit LWR-2 to the Direct Testimony of Mr. Randall.[4]

The Company has proposed the use of a DAA to separate the long-term debt of EGS between EGS-LA and EGS-TX, although EGS-LA will retain the entirety of the EGS debt outstanding at the date of separation. Under the Plan, EGS-TX will assume its prorated share of each series of EGS's long-term debt pursuant to the DAA and grant EGS-LA a security interest in the released assets located in Texas pursuant to a Mortgage, Deed of Trust and Security Agreement and a security interest in the released assets located in Louisiana pursuant to a Mortgage and Security Agreement (collectively, "the Security Agreements"), which will be

[4] An EGS separated balance sheet as of December 31, 2005 was provided to the Staff in the discovery phase of this proceeding. See the Transcript of the Hearing conducted on September 27, 2006 at 28 (8-15).

executed contemporaneously with the DAA. The DAA requires that EGS-TX pay off its allocated share of EGS's long-term debt within three years after the separation.

Finally, in addition to the various PPAs, DAA and the Security Agreements described above, a number of corporate legal documents will be necessary to effectuate the JSP, although these agreements have not yet been finalized.[5]

IV. PROCEDURAL HISTORY

This Docket was opened on December 14, 1999 as Docket U-21453, U-20925 (SC), U-22092 (SC) (Subdocket B) after the passage of Senate Bill No. 7 by the Texas Legislature. That statute required the corporate separation of vertically-integrated utilities operating in Texas, including EGSI, which operates in more than one state. The Commission authorized the investigation of the potential separation of the operations of EGSI in Louisiana and Texas, as well as the consideration of any measures necessary to protect ratepayers from potentially harmful consequences of the Texas restructuring requirements. Interventions were filed on behalf of the Louisiana Energy Users Group and Louisiana Generating, LLC.

On January 24, 2000, EGSI filed with the Commission the separation plan that it had submitted under Texas law with the Public Utility Commission of Texas ("PUCT") in PUCT Docket No. 21957. The matter was assigned to the Honorable Carolyn DeVitis. On January 31, 2001, EGSI and the Staff filed a motion stating that the Staff and the Company had reached a conceptual agreement on a number of broad issues, including a structural separation of EGSI's Texas jurisdictional distribution assets based on situs, a separation of EGSI's assets based on loads, the structural separation of EGSI's Texas generation assets, and a method to retire EGSI's long term obligations.

The agreement also contained hold harmless agreements intended to protect Louisiana ratepayers from costs incurred as a result of the Texas restructuring. The parties requested the opportunity to continue the settlement discussions prior to a scheduled hearing, and the hearing was rescheduled.

A Settlement Term Sheet was filed describing an agreement between the Staff and EGSI on a general structure for the business separation and key features of the separation plan,

[5] Those documents include: Agreement of Merger and Reorganization of Entergy Gulf States, Inc. and Entities Formed by Merger and Reorganization; Articles of Merger of Entergy Gulf States, Inc.; Plan of Merger of Entergy Gulf States, Inc., Certificate of Formation of Entergy Gulf States - Texas, Inc.; Certificate of Formation of EGS Holdings, Inc.; Articles of Organization of EGS-LA, L.L.C.; Certificate and Articles of Merger of EGS-LA, L.L.C. and Entergy Gulf States, Inc.; Agreement and Plan of Merger and Reorganization of Entergy Gulf States, Inc. into EGS-LA, L.L.C. Drafts of these documents were admitted into the record as Exhibit EGS 6 *in globo.*

including the separation of transmission, distribution, and generation assets. The term sheet indicated that the Staff and the Company would continue negotiating various ratemaking hold harmless agreements. The Commission approved the Settlement Term Sheet through a July 31, 2001 Interim Order.

A Transmission and Distribution Term Sheet outlining the details of the planned separation of EGSI's transmission and distribution assets was filed in July of 2001. The LPSC approved the executed Transmission and Distribution Term Sheet at its September 19, 2001 meeting. No written order, however, was issued. Hearings on contested generation issues were never held because actions in Texas caused further proceedings in Louisiana to be held in abeyance.

On October 31, 2001, the PUCT voted to delay retail open access in EGSI's Texas service territory until at least September 15, 2002 and to prescribe several regulatory procedures necessary for the initiation of retail open access in EGSI's Texas service territory. The procedural schedule in Louisiana was continued without date. After May 2002, essentially all activities in Subdocket B were put on hold pending further action in Texas.

In late 2003 the PUCT designated December 31, 2004 as the new target date for retail open access in the portion of Texas outside the Electric Reliability Council of Texas ("ERCOT"), an electric system in Texas that operates separately from the interconnected grid that serves the Eastern United States. The ALJ in Subdocket B held a status conference and established a new procedural schedule requiring hearings in September 2004. At that time, EGSI identified several major changes in its Separation Plan, as compared to the 2001 plan that had been partially approved. Subsequently, however, the PUCT decided once again to delay open access until the FERC approved a Regional Transmission Organization ("RTO") that conformed to Section 39.151 of the Texas Public Utility Regulatory Act. On March 31, 2005 the schedule was changed in Louisiana to allow the parties additional time for a collaborative effort to develop a mutually agreeable separation plan. This schedule was again modified on August 10, 2005, and was continued without date on September 27, 2005 as the result of Hurricane Katrina.

The Company filed testimony and exhibits describing its new separation plan on April 26, 2006. The filing included testimony of E. Renae Conley, Bruce M. Louiselle, Steven C. McNeal, Phillip R. May, John P. Hurstell and Lee W. Randall. On May 25, 2006, the Commission voted to vacate the procedural schedule and close Subdocket B. It ruled that EGSI's

April 26, 2006 Plan should be reviewed in a new Subdocket J of Docket No. U-21453, U-20925 and U-22092. It directed that the ALJ prepare a report of the proceeding in Subdocket J, that the scope of Subdocket J be limited to a review of EGSI's new plan, that the ALJ prepare a report of the proceeding in Subdocket J but not a recommendation, and that a procedural schedule be established that would permit the Commission to vote on the proposed jurisdictional separation plan no later than the December 2006 Business and Executive Session. A procedural schedule was established. On August 1, 2006, Staff submitted the Direct Testimony and Exhibits of . Philip Hayet, Stephen Baron, Randy Futral, and Lane Kollen. On September 1, 2006 EGSI submitted the Rebuttal Testimony of Lee Randall, George Bartlett, and Bruce Louiselle.

On September 15, 2006, the Staff and EGSI filed their respective Pre-Hearing Statements, which identified the major issues to be addressed during the September 25 hearing. The hearing began on September 25, and it concluded on September 28. The Commission considered the Company's separation proposal at the December 6, 2006 B&E Meeting, but deferred a decision until the January B&E Meeting

IV. <u>ISSUES BEFORE THE COMMISSION</u>

The Staff and EGS have reached agreement on a number of issues in this proceeding. The Staff and EGS, however, did not enter into a settlement of these issues, as that term is used in the Rules of Practice and Procedure of the LPSC. Therefore, the Commission must rule on these non-disputed issues, as well as the issues on which the Staff and EGS have not reached agreement.

A. The Public Interest Standard

Pursuant to the Commission's 1994 General Order, no utility subject to the jurisdiction of the Commission "shall sell, assign, or otherwise dispose of or encumber the whole or any part of its franchise or divide into two or more utilities" without prior approval or official action of non-opposition of the Commission. The 1994 General Order goes on to state, in pertinent part, that "in determining whether to approve any such transfer of ownership or control the Commission shall take into account the following factors." The Company's JSP complies with those factors relevant to its plan as follows.

1. **The Company's Plan, as modified, is in the public interest**

The Staff believes that the jurisdictional separation is in the public interest, subject to the Staff recommendations to modify the Company's JSP in certain respects and subject to certain conditions.[6] The Company believes that its proposed JSP is in the public interest.[7] Consistent with the fundamental principle set forth in *Federal Power Commission v. Hope Natural Gas Company*,[8] the Plan results in a reasonable balancing of the interests of the Company and its customers.[9] As Ms. Conley testified, the objective of the plan is to be fair and reasonable to all parties.[10] The JSP generally is predicated on sound principles.

2. **The Company's Plan allows for the continued provision of safe, reliable service**

The Staff and the Company agree that the Company's JSP, as modified, will neither disrupt the operations of the System, nor will it affect the reliability of service.[11]

3. **The Company's Plan will provide net benefits to ratepayers in both the short-term and long-term**

The Staff and the Company agree that the JSP provides increased flexibility in resource planning.[12] As a result of the JSP, the Louisiana utility will be better positioned to optimize its resource planning portfolio. The JSP provides benefits to the Commission in terms of regulatory oversight and preserves the jurisdiction of the Commission to effectively regulate the Louisiana entity. No longer will the jurisdictional allocation issues attendant to the regulatory process exist, and no longer will the LPSC be confronted with potential conflicts with PUCT objectives in its consideration of resource acquisitions for the Company's customers.[13] Further, the LPSC and the PUCT each will have sole jurisdiction for retail ratemaking purposes over the transmission and distribution assets, liabilities, revenues and expenses located, received, and incurred in their respective jurisdictions. This jurisdictional separation of transmission and

[6] Dir. Test. of Lane Kollen, Ex. Staff 21.

[7] Dir. Test. of Bruce M. Louiselle, Ex. EGS 4, 25(17)-29(11).

[8] *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 590 (1944).

[9] Dir. Test. of Phillip R. May, Ex. EGS 10, 5(9-13); 14(6-13); Dir. Test. of E. Renae Conley, Ex. EGS 1, 6(18-21); Dir. Test. of Bruce M. Louiselle, Ex. EGS 4, 28(4)-29(11).

[10] Dir. Test. of E. Renae Conley, Ex. EGS 1, at 7(19-21); *see also* Transcript of the Hearing (Tr. Hr'g) conducted on September 25, 2006 at 22, 25, and 69.

[11] Dir. Test. of John P. Hurstell, Ex. EGS 3, 5(18)-6(4); Rebuttal Test. of George R. Bartlett, Ex. EGS 2, 5(17)-6(2); Tr. Hr'g conducted on September 25, 2006 at 184.

[12] Dir. Test. of Phillip R. May, Ex. EGS 10, 4(8-12); Dir. Test. of Stephen J. Baron, Ex. Staff 19, at 8(12-14).

[13] Dir. Test. of E. Renae Conley, Ex. EGS 1, 7(1-4); Dir. Test. of Bruce M. Louiselle, Ex. EGS 4, at 29(6-11).

distribution on the basis of situs will result in net benefits to Louisiana retail ratepayers not only from the perspective of discrete jurisdictional oversight, but also, according to analyses of 2003 data, will result in a reduction in the Louisiana retail revenue requirement.

A further benefit to the JSP, is that as a result of EGS's conversion to an L.L.C., the final step in the Plan, rates paid by customers in Louisiana will be lower than they otherwise would have been. As Ms. Conley and Mr. Louiselle discussed, conversion of the Louisiana utility to an L.L.C. will result in annual savings to Louisiana retail ratepayers of over $8 million.[14]

4. The Company's JSP Maintains the Current Management and is Transparent to the Company's Employees

The Company's plan provides for management and employees to remain the same and to provide the same service to the customers in Louisiana.[15] No issue has been raised with respect to maintaining the same management and employees that are currently providing service to the ratepayers of Louisiana, such that the Commission can be assured that the quality of service will be unaffected.[16]

FINDINGS OF FACT

1. The Company's Plan as modified herein is in the public interest.
2. The Company's Plan as modified herein allows for the continued provision of safe, reliable service to customers.
3. The Company's Plan as modified herein provides net benefits to ratepayers in both the short-term and long-term.
4. The Company's Plan as modified herein preserves and enhances the jurisdiction of the Commission to effectively regulate the Louisiana entity.
5. The Company's Plan as modified herein provides for the retention of management and employees that currently provide service to Louisiana customers.

B. Restructuring Steps to Accomplish the JSP

The JSP will result in a change in the financial structure of EGS. Currently, EGS is a Texas corporation and a wholly-owned subsidiary of Entergy.[17] The Company proposed five steps necessary to accomplish the JSP. The first step is for EGS to form EGS-TX, under the

[14] Dir. Test. of E. Renae Conley, Ex. EGS 1, 9(7-20); Dir. Test. of Bruce M. Louiselle, Ex. EGS 4, at 14(14-17).

[15] Dir. Test. of E. Renae Conley, Ex. EGS 1, at 6(11-14); 8(11-15).

[16] Dir. Test. of Bruce M. Louiselle, Ex. EGS 4, at 30(15-17).

[17] *Id.* at 6(17-21).

Texas merger statute[18] through which EGS-TX will be allocated its share of EGS's assets and liabilities in exchange for its common stock. EGS and EGS-TX will enter into a DAA pursuant to which EGS-TX will assume its share of the EGS long-term debt consistent with its allocated share of the EGS assets and liabilities. EGS-LA will use amounts paid by EGS-TX pursuant to the DAA to redeem and retire the outstanding debt issues assigned to EGS-TX. EGS-TX will reimburse EGS-LA for EGS-TX's allocated share of the costs of retirement and redemption. The EGS preferred stock will be retained by EGS.[19] The second step is for EGS to distribute its common stock in EGS-TX to Entergy.[20] In the third step, a new holding company (EGS Holdings, Inc.) will be created by Entergy; then, Entergy will contribute its stock in EGS to EGS Holdings, Inc.[21] The fourth step is to create a new entity, EGS-LA, L.L.C., a Louisiana Limited Liability Company under EGS Holdings, Inc. The fifth step is to merge EGS into EGS-LA, L.L.C. Prior to the merger of EGS into EGS-LA, L.L.C., it will be necessary to redeem the outstanding preferred stock of EGS. This fifth and final step will be accomplished within approximately thirty days of the fourth step. Steps one through four occur sequentially, but almost simultaneously.[22]

The purpose of converting EGS to an L.L.C. is to assume a business form that is not subject to Louisiana state corporate franchise taxes. In 2005, the Louisiana corporate franchise tax was approximately $8.6 million. Based on 2005 data, conversion to an L.L.C. would result in an annual savings of that amount.[23] This franchise tax liability ceases beginning on January 1 of the year following the date on which the conversion occurs.[24] The savings start to occur in the calendar year after the conversion takes place.

As mentioned above, in order to convert EGS to an L.L.C., however, it is necessary that the preferred stock be redeemed because of limitations in the EGS Amended and Restated Articles of Incorporation, as well as uncertainties surrounding the rights of shareholders versus

[18] Article 1.02A(18) and 5.01 of the Texas Business Corporation Act.

[19] Dir. Test. of Bruce M. Louiselle, Ex. EGS 4, at 6(21-25).

[20] *Id.* at 7(1-2).

[21] *Id.* at 7(4-5).

[22] *Id.* at 7(6-11).

[23] *Id.* at 14(16-18).

[24] *Id.* at 8(13-14).

L.L.C. members.[25] EGS has approximately $60 million of preferred stock outstanding, which equates to less than 1.5% of its capital structure. The cost to redeem this stock would require the payment of a call premium of $1.4 million and would result in the incurrence of approximately $1.1 million (2% of the outstanding balance) in financing costs. The dividend rate on the existing preferred stock is 6.7% Based on current interest rates, the redemption of the preferred stock and its refinancing via the issuance of new preferred would result in a nominal increase in cost. Were it refinanced with debt, there could be a nominal decrease in cost.[26]

FINDINGS OF FACT

6. Sequential steps consistent with those described by Bruce M. Louiselle are necessary and appropriate to accomplish the JSP.
7. The Company's JSP includes the conversion of EGS-LA into an L.L.C. so that EGS-LA will not be subject to Louisiana corporate franchise tax.
8. In 2005, the Louisiana corporate franchise tax was approximately $8.6 million.
9. The liability for the Louisiana corporate franchise tax ceases beginning January 1 of the year following the date when EGS-LA has converted to an L.L.C.. For example, were the conversion to be completed by December 31, 2006, the savings would occur in 2007. Were the conversion to occur on January 2, 2007, the savings would not occur until 2008.
10. In order to convert EGS-LA to an L.L.C., it is necessary that the preferred stock be redeemed because of limitations in the EGS Amended and Restated Articles of Incorporation as well as uncertainties surrounding the rights of shareholders versus L.L.C. members.
11. EGS has approximately $60 million of preferred stock outstanding, which equates to less than 1.5% of its capital structure. The dividend rate on the existing preferred stock is 6.7%.
12. The cost to redeem this stock will require the payment of a call premium of $1.4 million and will result in the incurrence of approximately $1.1 million (2% of the outstanding balance) in financing costs.
13. The Company will assign the costs of redeeming and refinancing the preferred stock to EGS's Louisiana customers.

[25] *Id.* at 7(14-17).

[26] *Id.* at 14(5-12).

14. The DAA requires that EGS-TX repay its share of the EGS debt retained by EGS-LA and to provide the funds for the redemption and retirement of this debt within three years after the date of separation.

15. EGS-TX will reimburse EGS-LA for EGS-TX's allocated share of the costs of retirement and redemption.

C. Separation of EGS's Transmission and Distribution Assets

The Company's JSP provides that EGS's transmission and distribution assets (and liabilities) will be separated based on situs.[27] The situs separation of EGS's transmission assets ensures that the LPSC will have applicable retail regulatory authority over the transmission assets of EGS-LA, and the PUCT will have applicable retail regulatory authority over the transmission assets of EGS-TX. Additionally, the separation of transmission and distribution assets provides the LPSC and the PUCT greater flexibility and authority to pursue arrangements tailored to the needs of its particular customers.[28] As Staff witness Stephen J. Baron testified, the separation of transmission assets based on situs was estimated to produce a reduction for the Louisiana jurisdiction in transmission-related revenue requirements of approximately $29.3 million based on 2003 data.[29] The Staff agrees that EGS's transmission and distribution assets should be separated based on situs.

FINDINGS OF FACT

16. The Company's JSP provides that the EGS's transmission and distributions assets and liabilities will be separated on the basis of situs.

17. The situs separation of EGS's transmission assets ensures that the LPSC will have appropriate retail regulatory authority over the transmission assets of EGS-LA, and greater flexibility and authority to pursue arrangements tailored to the needs of its customers.

18. Based on 2003 data, the separation of transmission on situs basis will result in a reduction in the Louisiana retail transmission-related revenue requirement.

19. The Staff agrees that the separation of EGS's transmission and distribution assets should be based on situs.

D. ERCOT or SPP-Related Transmission Costs and Expenses

[27] Dir. Test. of Phillip May, Ex. EGS 10, at 5(17-20).

[28] Dir. Test. of Stephen J. Baron, Ex. Staff 19, at 8(12-13).

[29] *Id.* at 8(1-5).

The situs separation of EGS's transmission assets facilitates EGS-TX's future entry into the Electric Reliability Council of Texas ("ERCOT"), which would require the separation of EGS-TX's transmission system from the rest of the Entergy transmission system. No one knows today when or even whether EGS-TX will enter ERCOT.[30] Nevertheless, EGS-TX's future entry into ERCOT, if it occurs, will require Entergy to make various modification and reliability improvements to the Entergy transmission system located in both Texas and Louisiana. ERCOT has performed preliminary studies identifying the upgrades that will be necessary in Texas and estimating the costs for various options. No studies have yet been completed on the reliability upgrades in Louisiana that will be necessary or the costs that will be incurred. Alternatively, the situs separation of EGS's transmission assets will facilitate EGS-TX's future entry into the Southwest Power Pool ("SPP"). The SPP currently is conducting studies to determine the extent and estimated costs of the upgrades that will be required in Texas and Louisiana.[31]

The Staff asserts that EGS-LA's customers should not bear the costs of the Texas or Louisiana upgrades necessary for EGS-TX to join ERCOT or the SPP. At the hearing, Company witness Renae Conley issued a previously-unstated Company position that appears to resolve the issues relating to ERCOT-related transmission costs. Specifically, Ms. Conley's statement provides:

> **Transmission Costs if EGS-TX Joins ERCOT:** It is EGS's position that, as a matter of principle, Texas customers should bear the incremental transmission costs that are incurred solely as a result of EGS-TX joining ERCOT or SPP. If EGS-LA incurs costs to maintain the reliability of the transmission system in Louisiana solely as a result of EGS-TX joining ERCOT or SPP (and such costs would not otherwise have been required), such costs should not be borne by EGS-LA customers except to the extent such costs are offset by benefits to EGS-LA customers. To the extent that there are such costs that are not offset by benefits, those should be borne by Texas customers. Accordingly, the Company's position before any regulator having jurisdiction over cost responsibility for incremental transmission costs that are incurred solely as a result of EGS-TX joining ERCOT or SPP will be consistent with this principle.

[Staff Ex. No. 3.]

Also during the hearing, Mr. Louiselle clarified that EGS-LA would not seek recovery from the Commission of transmission costs incurred because EGS-TX joins ERCOT, even if the costs are assessed to EGS-TX through Service Schedule MSS-2 of the Entergy System Agreement. [Tr. 9/26/06 at 194 ("Our position would be that we would not seek recovery.")]. Further, he clarified that the Company would protect Louisiana ratepayers from net detriments

[30] Tr. Hr'g conducted on September 28, 2006 at 52-53.

[31] Tr. Hr'g conducted on September 25, 2006 at 204-205.

"related to ERCOT and transmission," and that other benefits from the separation plan would not be netted against the additional cost in the protection mechanism. [*Id.* at 196]. On this basis, the Company's protective condition is acceptable to the Staff.

FINDINGS OF FACT

20. The situs separation of EGS's transmission assets will facilitate EGS-TX's entry into ERCOT, which will require the electrical separation of EGS-TX's transmission system from the rest of the Entergy transmission system.
21. EGS-TX's future entry into ERCOT, if it occurs, will require Entergy to make transmission modifications and reliability improvements in both Texas and Louisiana.
22. Currently, the Southwest Power Pool is leading an effort to estimate the costs of these upgrades.
23. To protect EGS-LA customers in the event EGS-TX joins ERCOT or SPP, the approval of the situs separation of EGS's transmission assets will be subject to the following condition:

> Texas customers will bear the incremental transmission costs that are incurred solely as a result of EGS-TX joining ERCOT or SPP. If EGS-LA incurs costs to maintain the reliability of the transmission system in Louisiana solely as a result of EGS-TX joining ERCOT or SPP (and such costs would not otherwise have been required), such costs, including the effects of changes in MSS-2 costs, should not be borne by EGS-LA customers except to the extent such costs, including the effects of changes in MSS-2 costs, are offset by benefits to EGS-LA customers. To the extent that there are such costs that are not offset by benefits, those should be borne by Texas customers. Accordingly, the Company's position before any regulator having jurisdiction over cost responsibility for incremental transmission costs that are incurred solely as a result of EGS-TX joining ERCOT or SPP will be consistent with this principle. A determination of the net transmission costs caused by EGS TX joining ERCOT shall reflect an incremental analysis of the costs and benefits of the new investment, net of incremental benefits as a result of EGS TX going to ERCOT including benefits to EGS-LA under FERC Opinion No. 480 that results from EGS-TX's departure from the System Agreement. The transmission cost savings realized from the separation itself and reflected in Rider T, including the reduction of Louisiana transmission investment and the reduction of MSS-2 responsibility because of the then-existing power transmission facilities in Louisiana, shall not be factored into the calculation.

E. Separation of Generation Assets

1. River Bend

The Company's Jurisdictional Separation Plan provides that EGS-LA will own the regulated seventy percent (70%) portion of River Bend ("Regulated River Bend") and will sell to EGS-TX its responsibility ratio share of the capacity and energy from Regulated River Bend pursuant to a PPA. The Plan also provides that EGS-LA will own the unregulated thirty percent (30%) portion of River Bend ("Unregulated 30% Portion"), the entire output of which is subject to PPAs with ELL and ENO. As a result, EGS-LA will own the entirety of River Bend under the Company's Plan.

The Staff opposes the Plan's treatment of River Bend because it will assign the entirety of the nuclear and environmental risk associated with the 30% unregulated share to EGS-LA and because the documents currently do not ensure that the nuclear and environmental risk associated with the EGS-TX share of the unit will be allocated to EGS-TX. Instead, the Staff proposes that all of the River Bend facilities (River Bend 70% and 30%) be jointly owned by EGS-LA and EGS-TX and allocated on a responsibility ratio basis. The Staff maintains that joint ownership will ensure an equitable allocation of the nuclear and environmental risk associated with this generating facility and maintain the status quo between the Texas and Louisiana jurisdictions. :

As alternatives to joint ownership, the Staff asserts that either of two approaches would be acceptable to protect Louisiana ratepayers from a disproportionate allocation of the risk of nuclear and environmental liability related to the River Bend 30% share. They are:

Alternative 1: The PPA structure proposed by EGS will be adopted, but EGS will provide an agreement that allocates a load ratio share of the nuclear and environmnetal liability risk for all of River Bend to EGS-TX.

Alternative 2: EGS-LA will own all of River Bend, but will sell both the River Bend 30% and the EGS-TX load ratio share of the River Bend 70% to EGS-TX via a life-of-unit PPA (or PPAs) with the River Bend 30% priced in the same manner as the MSS-4 pricing and the share of the River Bend 70% priced according to MSS-4. The nuclear and environmental risk associated with the River Bend 30% and EGS-TX's load ratio share of the River Bend 70% will be assigned to EGS-TX. The existing PPAs from EGS to Entergy Louisiana LLC and Entergy New Orleans, Inc. for the output from the River Bend 30% will be assigned to EGS-TX.

Additionally, regardless of the alternative selected by EGS, the Staff asserts that the following conditions are necessary to protect ratepayers:

1) the separation documents legally allocate the nuclear and environmental risk associated with River Bend between EGS-LA and EGS-TX on a responsibility ratio basis;

2) the separation documents legally obligate EGS-TX to guarantee the nuclear and environmental risk of the EGS-TX share of River Bend in the event it assigns or otherwise conveys that interest to a third party;

3) the Company agrees not to charge ratepayers for any nuclear or environmental costs associated with the River Bend 30%.

a. Allocation of risk and related costs between EGS-LA and EGS-TX for nuclear and environmental liabilities

In response to the Staff concerns regarding the allocation of the River Bend 70% risk between EGS-LA and EGS-TX, the Company has agreed to the following condition for the separation of the River Bend 70%:[32]

> As a condition to its order, the Commission requires that the legal documents effecting the separation of EGS provide that EGS-LA and EGS-TX be each responsible for their respective responsibility ratio share of the nuclear and environmental liabilities associated with the regulated seventy percent (70%) portion of River Bend.

This condition transforms the EGS intent into a legal obligation required by the Commission Order. To verify compliance with this legal obligation, EGS will obtain the opinions of outside counsel licensed to practice in the relevant jurisdictions that the documents are consistent with the terms of all applicable regulatory approvals.[33] EGS then will forward these opinions to the Commission to satisfy the above condition.[34] This process will insure that the final legal documents effecting the jurisdictional separation of EGS properly allocate the risk arising from nuclear and environmental liabilities associated with the River Bend 70%.

In addition, as required in the Staff's "alternative approach," the Company agrees that the legal documents addressing the nuclear and environmental liabilities associated with the River Bend 70% allocated to EGS-TX will be indemnified by EGS-TX in the event that EGS-TX assigns or otherwise conveys the River Bend PPA to a third party.

Further, the Company agrees to the following condition for the separation of the River Bend 30%:

[32] Tr. Hr'g conducted on September 27, 2006 at 256.

[33] Rebuttal Testimony of Bruce M. Louiselle, Ex. EGS 5, at 36(8-16); Tr. Hr'g conducted on September 27, 2006 at 256.

[34] Tr. Hr'g conducted on September 27, 2006 at 256.

> EGS-LA will not attempt to recover from EGS-LA customers any costs associated with the Unregulated 30% Portion, including nuclear and environmental costs, such as decommissioning, spent fuel, and nuclear accidents.

Although the Company and Staff have reached agreement on the River Bend 70% nuclear and environmental liability issues, the parties have not reached agreement on the River Bend 30% nuclear and environmental liability issues. Entergy Corp. is unwilling to provide EGS-LA an indemnity to ensure that nuclear and environmental costs incurred for the River Bend 30% are not directly or indirectly charged to EGS-LA ratepayers.

FINDINGS OF FACT

24. The Company's JSP provides that EGS-LA own the regulated River Bend 70% and sell to EGS-TX its responsibility ratio share of the capacity and energy from the River Bend 70% pursuant to a life-of-unit PPA priced in accordance with MSS-4. The Plan also provides that EGS-LA will own the unregulated River Bend 30%, the entire output of which is subject to life-of-unit PPAs with ELL and ENO.

25. The Staff opposes the Company's treatment of River Bend and proposes that all of River Bend (River Bend 70% and River Bend 30%) be jointly owned by EGS-LA and EGS-TX.

26. The Staff has proposed an alternative whereby Entergy Corp. will provide a corporate indemnity on the River Bend 30% to EGS-LA to ensure that EGS-LA ratepayers are not harmed due to nuclear and environmental risk and the related costs of an accident or other event and the costs of such an event.

27. Entergy Corp will not provide such a corporate indemnity on the River Bend 30%.

28. The Staff has proposed two alternatives to its proposal for joint ownership of River Bend or an Entergy indemnity. Those alternatives are the following:

29. Alternative 1: The PPA structure proposed by EGS will be adopted, but EGS will provide an agreement that allocates a load ratio share of the nuclear and environmental risk for all of River Bend to EGS-TX.

30. Alternative 2: EGS-LA will own all of River Bend, but will sell both the River Bend 30% and EGS-TX's load ratio share of the River Bend 70% to EGS-TX via a life-of-unit PPA (or PPAs) with the River Bend 30% priced in the same manner as MSS-4 and the load ratio share of River Bend 70% priced on the basis of MSS-4. The nuclear and environmental risk associated with the River Bend 30% and EGS-TX's load ratio share of the River Bend 70% will be assigned

to EGS-TX. The existing PPAs from EGS to Entergy Louisiana LLC and Entergy New Orleans, Inc. for the output from the River Bend 30% will be assigned to EGS-TX.

31. The Company agrees with the following condition:

> As a condition to its order, the Commission requires that the legal documents effecting the separation of EGS provide that EGS-LA and EGS-TX be each responsible for their respective responsibility ratio share of the nuclear and environmental liabilities associated with the regulated River Bend 70%.

32. The Company agrees that the legal documents addressing the nuclear and environmental liabilities associated with the Regulated River Bend 70% will insure that, in the event that EGS-TX assigns or otherwise conveys the River Bend PPA to a third party, EGS-LA will be adequately protected from the risk associated with such liabilities.

33. The Company will include the following condition:

> EGS-LA will not attempt to recover from EGS-LA retail customers any costs associated with the Unregulated 30% Portion, including nuclear and environmental costs, such as decommissioning, spent fuel, and nuclear accidents.

34. The Commission rejects the Staff's proposal and approves the Company's Plan providing that EGS-LA will own the regulated seventy percent (70%) portion of River Bend ("Regulated River Bend") and will sell to EGS-TX its responsibility ratio share of the capacity and energy from Regulated River Bend pursuant to a PPA priced in accordance with MSS-4 and that EGS-LA will own the unregulated thirty percent (30%) portion of River Bend.

2. Gas Units, Varibus, Spindletop Storage Facility, and Spindletop Regulatory Asset

The Staff and the Company agree that EGS's gas/oil fired generating facilities should be separated on a situs basis with EGS-LA owning the gas/oil fired units at the Roy S. Nelson station, Louisiana Station No. 2, and the Willow Glen units and the Varibus subsidiary and facilities and EGS-TX owning the units at the Lewis Creek and Sabine stations and the Spindletop gas storage facility.[35]

The Staff and the Company further agree that EGS-LA, via a PPA priced pursuant to MSS-4, will sell to EGS-TX a portion (equal to the EGS-TX responsibility ratio) of the capacity and energy from each gas/oil fired unit owned by EGS-LA, as described above. Similarly, EGS-TX, via a PPA priced pursuant to MSS-4, will sell to EGS-LA a portion (equal to the EGS-LA responsibility ratio) of the capacity and energy from each gas/oil fired unit owned by EGS-TX,

[35] Dir. Test. of Bruce M. Louiselle, Ex. EGS 4, at 15(16-19); Dir. Test. of Phillip R. May, Ex. EGS 10, at 12(19)-13(4); Dir. Test. of Lane Kollen, Ex. Staff 21, at 5(17)-6(3).

as described above. Such PPAs shall terminate only upon the implementation of retail open access in EGS-TX's service territory or the removal of the unit or units from the Entergy System dispatch.[36]

The Spindletop regulatory asset represents the undepreciated capital costs of the pipelines, equipment, and other construction costs of the natural gas storage caverns located in Texas that were allocated to the Louisiana jurisdiction and deferred pursuant to the Commission's Orders in Docket Nos. U-19904-D and U-20647. The Spindletop pipelines, equipment, and storage facility physically serve the Sabine and Lewis Creek generating stations, which also are located in Texas. [EGSI Ex. 10 (May Direct Test.) at 12-13.] The Staff recommended that this regulatory asset be assigned to EGS-TX rather than EGS-LA because it represented the undepreciated capital cost of the physical assets that would be owned solely by EGS-TX post-separation. Initially, the Company opposed the Staff proposal. The Company now agrees that the Spindletop regulatory asset shall be assigned to and owned by EGS-TX. During the term of the PPA with respect to Sabine station, EGS-TX shall bill EGS-LA the annual revenue requirement associated with the Spindletop regulatory asset calculated in a manner consistent with the manner in which it is calculated currently by the LPSC-regulated jurisdiction.[37] Subsequent to the termination of the Sabine PPA, there will be no further charges to EGS-LA for the Spindletop regulatory asset regardless of whether there remains an unamortized balance at the termination date.

The separation of EGS's gas/oil fired units on the basis of situs with PPAs and the treatment of the Spindletop regulatory asset described above is reasonable because it accomplishes a logical separation of the gas/oil fired units with *de minimis* effects on the allocation of production costs between EGS's Louisiana and Texas jurisdictions. Based on data for the twelve months ending August 2005, the costs borne by each entity with the PPAs in place would be within $800,000 of that incurred under the existing paradigm, with the variable production costs of EGS-LA being $800,000 less and EGS-TX's costs being $700,000 more.[38]

FINDINGS OF FACT

[36] Tr. Hr'g conducted on September 26, 2006 at 31-32.

[37] Tr. Hr'g conducted on September 26, 2006 at 206-207.

[38] Rebuttal Test. of Bruce M. Louiselle, Ex. EGS 5, at 19(3-7).

35. The Company's JSP provides that EGS's gas/oil fired generating facilities be separated on a situs basis with EGS-LA owning the gas/oil fired units at the Roy S. Nelson station, Louisiana Station No. 2, and the Willow Glen units and the Varibus pipeline and EGS-TX owning the units at the Lewis Creek and Sabine stations and the Spindletop gas storage facility.

36. EGS's gas/oil fired generating facilities should be separated on a situs basis.

37. The Company's JSP provides that EGS-LA, via a PPA priced pursuant to MSS-4, will sell to EGS-TX a portion (equal to the EGS-TX responsibility ratio) of the capacity and energy from each gas/oil fired unit owned by EGS-LA. Similarly, EGS-TX, via a PPA priced pursuant to MSS-4, will sell to EGS-LA a portion (equal to the EGS-LA responsibility ratio) of the capacity and energy from each gas/oil fired unit owned by EGS-TX, as described above.

38. These PPAs ensure that the generating costs incurred by EGS-LA and EGS-TX associated with the EGS gas/oil fired generating facilities will be similar to those costs that are incurred currently in each jurisdiction. Based on data for the twelve months ending August 2005, the variable production costs borne by each entity with the PPAs in place would be within $800,000 of that incurred by each jurisdiction under the existing ratemaking paradigm, with the variable production costs of EGS-LA being $800,000 less and EGS-TX's costs being $700,000 more.

39. The PPAs will terminate only upon the implementation of retail open access in the EGS-TX service territory or the removal of the unit or units from the Entergy System dispatch.

40. The Spindletop regulatory asset will be assigned to and owned by EGS-TX. During the term of the PPA with respect to Sabine station, EGS-TX will bill EGS-LA the annual revenue requirement associated with the Spindletop regulatory asset calculated in a manner consistent with the manner in which it is calculated currently by the LPSC-regulated jurisdiction.

3. Nelson 6 and Big Cajun 2, Unit No. 3

The Company proposes that EGS-LA and EGS-TX jointly own the EGS ownership interests in the Nelson 6 and Big Cajun 2, Unit No. 3 coal-fired generating facilities based on their relative responsibility ratios. The Nelson 6 facilities include the wholly-owned Southern Gulf Railway affiliate and facilities. The Company proposes that both EGS-LA and EGS-TX be parties to the existing agreements covering the joint ownership and operation of those units. The Company proposes that the Nelson 6 joint and common facilities will be jointly owned as well.[39]

[39] Rebuttal Test. of Lee W. Randall, Ex. EGS 8, at 8(15)-9(2); Dir. Test. of Lane Kollen, Ex. Staff 21, at 6(18-20).

EGS-LA will be the operator of Nelson 6 pursuant to the Nelson 6 JOA.[40] NRG will continue to be the operator of the Big Cajun 2, Unit 3 pursuant to the Big Cajun 2, Unit 3 JOA. The Staff agrees with these aspects of the Company's Nelson 6 and Big Cajun 2, Unit 3 proposals, although it is concerned that the Nelson 6 agreement may have to be modified to accommodate the joint ownership between EGS-TX and EGS-LA. The Staff does not believe that the Company adequately addressed these concerns or any changes to the Nelson 6 JOA that may be necessary to implement the separate JOBPA for sharing costs between EGS-LA and EGS-TX.

The Company further proposed a new agreement for the allocation and billing of Nelson 6 costs between EGS-LA and EGS-TX entitled the Joint Owner Billing Process Agreement. The Staff perceived problems with the proposed JOBPA, which the Company declined to attempt to resolve at this time. However, the Company agrees that it will modify the proposed JOBPA to include more detail as to the billing process, address the allocation of costs from Entergy Services, Inc. to EGS-LA and EGS-TX, and to address the billing process itself.[41] None of the carrying costs incurred by EGS-LA on behalf of EGS-TX, if any, will be assessed to EGS-LA retail customers. The Company agreed that it will submit a revised JOBPA and any associated documents as part of the Commission's post-separation review.

The Company proposes that the Nelson 6 rail car lease be assigned to EGS-LA. The Staff contends that EGS-TX should become a party to the Nelson 6 rail car lease.[42] The Company's position is that the rail car lease is an operating lease for the transportation of the fuel supply, and EGS-LA, as operator of the Nelson 6 plant, is the appropriate lessee pursuant to that lease and that EGS-TX will be billed its appropriate share of the costs associated with Nelson 6 rail car lease.[43] The Staff agrees to waive its opposition to the assignment of the lease to EGS-LA contingent upon an acceptable revised Nelson 6 JOBPA that addresses the Staff's concerns regarding the billings from EGS-LA to EGS-TX for Nelson 6 costs, including the issue of carrying costs on amounts initially paid by EGS-LA and then billed to EGS-TX.

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[40] Dir. Test. of Bruce M. Louiselle, Ex. EGS 4, at 15(19-21); Dir. Test. of Lee W. Randall, Ex. EGS 7, at 26(13)-27(18); Dir. Test. of Lane Kollen, Ex. Staff 21, at 6(12-15).

[41] Rebuttal Test. of Lee W. Randall, Ex. EGS 8, at 10(4-7); Dir. Test. of Lane Kollen, Ex. Staff 21, at 23(10-13).

[42] Dir. Test. of Lane Kollen, Ex. Staff 21, at 6(19)-7(1).

[43] Rebuttal Test. of Lee W. Randall, Ex. EGS 8, at 9(4-14).

FINDINGS OF FACT

41. The Company's JSP provides that EGS-LA and EGS-TX will jointly own EGS's share of Nelson 6, including the Nelson 6 joint and common facilities, and Big Cajun 2, Unit 3 based on responsibility ratios and that both EGS-LA and EGS-TX will become parties to the agreements covering the joint operation of those units.

42. The Company's JSP provides that the proposed JOBPA, submitted with the Company's JSP, will govern the billing of costs from EGS-LA to EGS-TX associated with the operation of Nelson 6.

43. The JOBPA as proposed does not provide sufficient detail regarding the billing process that will be implemented or resolve all of the problems identified by the Staff.

44. The Company agrees that it will modify the JOBPA to include more detail as to the billing process.

45. None of the carrying costs incurred by EGS-LA on behalf of EGS-TX, if any, will be assessed to EGS-LA retail customers.

46. The Company must submit the revised JOBPA and any necessary associated documents in conjunction with the Commission's post- separation review.

47. EGS-LA will be the operator of Nelson 6 and is the appropriate lessee with respect to the Nelson 6 rail car lease, subject to the Commission's review of the revised JOBPA to ensure that EGS-TX will be billed its appropriate share of the Nelson 6 rail car lease expenses.

4. The Allocation of the Toledo Bend PPA

The JSP provides that EGS share of capacity and energy from the Toledo Bend PPA will be allocated between EGS-TX and EGS-LA. EGS-LA and EGS-TX will be substituted for EGS as parties to the Toledo Bend PPA using relative load responsibility ratio to determine each party's entitlement under the PPA. The Staff agrees with this treatment.[44]

FINDINGS OF FACT

48. EGS-LA and EGS-TX will be substituted for EGS as parties to the Toledo Bend PPA using their relative responsibility ratios to determine each party's entitlement under the PPA.

5. The Treatment of the Perryville PPA

Currently, pursuant to a PPA, EGS purchases seventy-five percent (75%) of the output of two units owned by Entergy Louisiana located at the Perryville Power Station, one a combined

[44] Dir. Test. of Bruce M. Louiselle, Ex. EGS 4, at 16(4-5); Dir. Test. of Lane Kollen, Ex. Staff 21, at 8(1-5).

cycle gas turbine ("CCGT") and the other a combustion turbine ("CT").[45] The Company's Plan provides that EGS-LA will become the sole purchaser on the Perryville PPA and that EGS-TX will purchase from EGS-LA its responsibility ratio share of EGS's share of the output of the Perryville units through a new PPA that will be priced in accordance with MSS-4.[46] The Plan further provides that the PPA between EGS-LA and EGS-TX will terminate upon the implementation of retail open access in EGS-TX's service territory.[47] As a result, upon the implementation of retail open access in EGS-TX's service territory, EGS-LA will obtain EGS-TX's share of the output of the Perryville units.

The Staff argues that EGS-LA at this time should not commit to taking the EGS-TX share of the output of the Perryville units upon the implementation of retail open access in the EGS-TX service territory because in the future Perryville may not be an economic option.[48] Rather, the Staff proposes that EGS-LA and EGS-TX retain their respective shares of Perryville for the life of the units. Alternatively, the Staff proposes that EGS-TX may wish to extend a limited term option to EGS-LA that would allow EGS-LA to terminate the PPA from EGS-LA to EGS-TX upon retail open access in the EGS-TX service territory if EGS-LA determines that the Perryville capacity is the economic option and the Commission concurs. The Company is opposed to either of the Staff alternatives.

FINDINGS OF FACT

49. Currently, pursuant to a PPA, EGS purchases seventy-five percent (75%) of the output of two units owned by Entergy Louisiana located at the Perryville Power Station, one a combined cycle gas turbine ("CCGT") and the other a combustion turbine ("CT").

50. The Company's JSP provides that EGS-LA will become the sole purchaser under the Perryville PPA and that EGS-TX will purchase its responsibility ratio share of EGS's share of the output of the Perryville units. The Plan further provides that the PPA between EGS-LA and EGS-TX will terminate upon the implementation of retail open access in EGS-TX's service territory. As a result, upon the implementation of retail open access in EGS-TX's service territory, EGS-LA will obtain EGS-TX's share of the output of the Perryville units.

[45] LPSC Order No. U-27836, dated May 3, 2005, at 1-2. The Report of Special Counsel incorrectly ignores the distinction between these two units.

[46] Dir. Test. of Bruce M. Louiselle, Ex. EGS 4, at 16(1-4).

[47] Dir. Test. of Phillip R. May, Ex. EGS 10, Ex. PRM-4.

[48] Dir. Test. of Lane Kollen, Ex. Staff 21, at 34(4-10).

51. The Staff argues that EGS-LA at this time should not commit to taking EGS-TX's share of the output of the Perryville units upon the implementation of retail open access in the EGS-TX service territory because in the future, Perryville may not be an economic option. The Staff proposes that either EGS-LA and EGS-TX retain their respective shares of Perryville for the life of the units or that EGS-TX may wish to extend to EGS-LA a limited term option whereby EGS-LA may terminate the PPA between EGS-LA and EGS-TX upon the implementation of retail open access in the EGS-TX service territory, if EGS-LA determines at that time that Perryville is an economic option and the Commission concurs.

52. The Company opposes this option alternative and proposes that the Commission accept the treatment of Perryville as contained in the JSP or that the Commission adopt the Staff's recommendation to have EGS-LA and EGS-TX retain their respective shares of Perryville for the life of the units.

53. The Commission believes that acquiring the EGS-TX Perryville PPA will be economic, even if delayed to a future time. Therefore, the Commission adopts the Company's proposal.

6. EGS-LA Serving the EGS Wholesale Customers

The JSP provides that EGS-LA will serve the existing EGS Texas and Louisiana wholesale customers.[49] EGS-LA will have no obligation to serve the existing EGS Texas and Louisiana wholesale customers beyond the term of their existing contracts, all of which are subject to termination by 2009.[50] This proposal should have no adverse consequences on Louisiana retail customers because a parallel allocation will be made of the generation resources associated with that load. IF EGS-TX joins ERCOT, however, and transmission lines are disconnected at the state border, a DC tie would be required to permit EGS-LA to serve the Texas wholesale load. A tie of that type could be very expensive, and the cost of the tie conceivably could be allocated to EGS-LA customers.

The Company agrees to the following condition proposed by the Staff to address the possibility that EGS-LA, at some point in the future, could be serving a wholesale customer located in Texas, if EGS-TX enters ERCOT:

> EGS-LA will not renew contracts with any of the Texas wholesale customers at their expiration, or if it does renew those contracts and EGS-TX enters ERCOT,

[49] Dir. Test. of Bruce M. Louiselle, Ex. EGS 4, at 18(14-19); Dir. Test. of John P. Hurstell, Ex. EGS 3, at 9(11)-10(8); Dir. Test. of Lane Kollen, Ex. Staff 21, at 9(12-13).

[50] Tr. Hr'g conducted on September 26, 2006 at 38-39.

> EGS-LA will ensure that EGS-LA's retail customers pay none of the costs relating to any DC transmission tie or other incremental transmission investment necessary for EGS-LA to serve the wholesale customers in Texas.

FINDINGS OF FACT

54. The Company's JSP provides that EGS-LA will serve the existing EGS Texas and Louisiana wholesale customers.

55. The Commission's order should include the following condition:

> EGS-LA will not renew contracts with any of the Texas wholesale customers at their expiration, or if it does renew those contracts and EGS-TX enters ERCOT, EGS-LA will ensure that EGS-LA's retail customers pay none of the costs relating to any DC transmission tie or other incremental transmission investment necessary for EGS-LA to serve the wholesale customers in Texas.

F. Steam and Gas

Under the Company's Plan, the EGS steam and retail gas distribution operations, which are located in Louisiana, will be owned by EGS-LA. [EGS Ex. 10 (May Direct Test.) at 13.] The Staff agrees with the Company's proposal.

FINDINGS OF FACT

56. The Company's Plan provides that EGS-LA will be assigned the EGS steam and gas retail distribution operations.

G. Financial Aspects of the JSP

1. Debt Assumption Agreement

The Staff and the Company agree that the separation of the EGS long-term debt will be accomplished through a DAA (with Security Agreements) providing EGS-TX three years to pay its prorated share of the EGS long-term debt.[51]

The DAA is an agreement that will be executed by EGS-TX in favor of EGS-LA under which EGS-TX will assume the obligation for principal and interest associated with the outstanding long-term debt of EGS allocated to EGS-TX's assets; payment of the debt is to occur no later than the three-year anniversary date of the effective date of the separation.[52] The DAA also provides that EGS-LA will have a security interest (first lien), granted pursuant to a Mortgage, Deed of Trust and Security Agreement on the released assets located in Texas and a Mortgage and Security Agreement on the released assets located in Louisiana (collectively, "the

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[51] Dir. Test. of Steven C. McNeal, Ex. EGS 9, 9(7)-12(2); Dir. Test. of Lane Kollen, Ex. Staff 21, at 10(2-6).

[52] Dir. Test. of Steven C. McNeal, Ex. EGS 9, at 9(9-13).

Security Agreements") that will be executed contemporaneously with the DAA.[53] The Security Agreements will allow EGS-LA to foreclose on those assets in the event of a default by EGS-TX under the DAA.[54]

The Staff proposed that the Commission require an Entergy Corp. indemnity on the EGS-TX debt assumption obligations to ensure timely repayment during the term of the DAA to protect EGS-LA and its ratepayers, regardless of the financial viability of EGS-TX.[55] The Company believes that such an indemnity is unnecessary. However, in response to the Staff concerns and as further protection for EGS-LA, the Company agrees to amend the Section 3 of the DAA to include the following clarification, which provides that EGS-TX cannot sell its assets unless the DAA is satisfied:

> 3(d.) Unless and until the Assumption Party has paid all of the Assumed Debt and otherwise satisfied all of its obligations hereunder, the Assumption Party shall not sell, lease, transfer or otherwise dispose of all or substantially all of the assets allocated to it in accordance with the Jurisdictional Separation. This provision, however, does not affect the rights of the Assumption Party to effect a partial release of the Mortgaged Property as provided for in Section 6 of the Security Agreements in accordance with the terms therein.[56]

In addition, Section 6 of the Security Agreements requires that at all times the value of the Mortgaged Property subject to the lien be at least 166% of the value of the outstanding Assumed Debt. This provision allows EGS-TX to make nominal releases of Mortgaged Property subject to the lien in the ordinary course of business, and assures that EGS-LA has sufficient collateral for the Assumed Debt.

The Staff has informed the Commission that the preceding amendment to the DAA, the other provisions of the DAA, and the provisions of the Security Agreements are acceptable in lieu of an Entergy Corp. indemnity, given the benefits of cost reductions relating to the separation, including Riders CF and T, that address the concerns of the Staff regarding the additional risk perceived by the Staff of EGS-LA retaining all of the outstanding EGS debt.

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[53] *Id.* at 9(13-19).

[54] *Id.* at 9(19-20).

[55] Dir. Test. of Lane Kollen, Ex. Staff 21, at 10(6-8).

[56] This clarification is consistent with Mr. McNeal's testimony at hearing. Tr. Hr'g conducted on September 27, 2006 at 151-154.

FINDINGS OF FACT

57. The Company's JSP provides that the separation of EGS's long-term debt will be accomplished through a DAA (with Security Agreements) providing EGS-TX three years to pay off its prorated share of the EGS long-term debt.

58. The DAA is an agreement that will be executed by EGS-TX in favor of EGS-LA under which EGS-TX will assume the obligation for principal and interest associated with the outstanding long-term debt allocated to EGS-TX's assets. Payment of the debt is to occur no later than the three-year anniversary date of the effective date of the separation.

59. The DAA also provides that EGS-LA will have a security interest (first lien), granted pursuant to a Mortgage, Deed of Trust and Security Agreement on the released assets located in Texas and a Mortgage and Security Agreement on the released assets located in Louisiana (collectively, "the Security Agreements") that will be executed contemporaneously with the DAA. The Security Agreements will allow EGS-LA to foreclose on those assets in the event of a default by EGS-TX under the DAA.

60. Section 3 of the DAA will be amended to include the following, which has the effect of requiring that at all times that the value of Mortgaged Property subject to the lien will be at least 166% of the value of all Assumed Debt secured by the lien of the Security Agreements:

> (d.) Unless and until the Assumption Party has paid all of the Assumed Debt and otherwise satisfied all of its obligations hereunder, the Assumption Party shall not sell, lease, transfer or otherwise dispose of all or substantially all of the assets allocated to it in accordance with the Jurisdictional Separation. This provision, however, does not affect the rights of the Assumption Party [EGS-TX] to effect a partial release of the Mortgaged Property as provided for in Section 6 of the Security Agreements in accordance with the terms therein.
>
> EGS-TX will be able to make nominal releases of Mortgaged Property subject to the lien in the ordinary course of business, and assures that EGS-LA has sufficient collateral for the Assumed Debt.

61. This finding of fact is intentionally left blank.

62. The DAA, as modified by the preceding amendments, is appropriate and reasonable and provides reasonable protections to EGS-LA and its customers. Any additional ratepayer risk associated with the debt assumption is reasonably balanced by cost savings that will flow through to ratepayers.

2. Balance Sheet Model

The Company filed its Balance Sheet Model with the Direct Testimony of Mr. Randall reflecting the accounting methodology that will be used to separate EGS's balance sheet and create the initial balance sheets for EGS-LA and EGS-TX.[57] For illustrative purposes, the Company applied the Balance Sheet Model to EGS's Balance Sheet as of December 31, 2003.[58] Staff witness Randy A. Futral opined that the Balance Sheet Model provides a good framework for the actual separation of EGS's balance sheet, but identified certain issues regarding the Balance Sheet Model.[59]

In response to the Staff concerns, the Company agrees that it will reduce manual inputs and external links in the Balance Sheet Model to the extent practicable, while maintaining the functionality of the Balance Sheet Model.[60] The Company agrees that it will evaluate whether further refinement of the allocation of certain intercompany payables and receivables is feasible when it performs the actual separation of the EGS balance sheet.[61] The Company will evaluate whether the allocation of balances in seven accounts identified by Mr. Futral should be allocated to the Unregulated 30% Portion of River Bend and EGS-LA's gas and steam operations;[62] if revisions are appropriate based on the composition of those accounts at the time of jurisdictional separation, the Company will reflect such revisions in the actual separation of the EGS balance sheet.[63] In addition, the Company will complete the specific assignment process of general and intangible plant assets, to the extent possible.

FINDINGS OF FACT

63. The Company's JSP includes a Balance Sheet Model with the Direct Testimony of Mr. Randall reflecting the accounting methodology that will be used to separate EGS's balance sheet at the time of separation.

64. For illustrative purposes, the Company applied the Balance Sheet Model to EGS's Balance Sheet as of December 31, 2003.

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[57] Dir. Test. of Lee W. Randall, Ex. EGS 7, Ex. LWR-1.

[58] *Id.*

[59] Dir. Test. of Randy A. Futral, Ex. Staff 24, at 6(16)-7(5). Mr. Futral explained that Company personnel "did a good job of separating to a very large extent" in the Balance Sheet Model and that his concerns were directed at facilitating the review of the actual separation. Depo. of Randy A. Futral, Ex. EGS 22, at 21-22. Therein, he also explained that he thought the Balance Sheet Model met Mr. Kollen's expectations based on his discussions with Mr. Kollen. *Id.* at 31-32.

[60] Rebuttal Test. of Lee W. Randall, Ex. EGS 8, at 4(19-22).

[61] Rebuttal Test. of Lee W. Randall at 4(6-12).

[62] Dir. Test. of Randy A. Futral at 26(1-21).

[63] Rebuttal Test. of Lee W. Randall at 5(9-17).

65. The Balance Sheet Model provides a good framework for the actual separation of EGS's balance sheet.

66. The Company will reduce the number of manual inputs and external links in the Balance Sheet Model, to the extent practicable, while maintaining the functionality of the Balance Sheet Model, when it performs the actual separation of the EGS balance sheet.

67. The Company agrees that it will evaluate whether further refinement of the allocation of Accounts 142, 14611, 14613, and 143012 is feasible when it performs the actual separation of the EGS balance sheet.

68. The Company will evaluate whether the allocation of balances in the following accounts should include allocations to the Unregulated 30% Portion of River Bend and EGS-LA's gas and steam operations: Accounts Payable, Accounts Payable-Oracle, Accounts Payable Oracle Outstanding Checks, Accounts Payable – SAIC, General Accounting Month End and Year End Accruals, Reserve for Injuries and Damages – "Schedule 8 – Accumulated Provs," Accrued Taxes – Ad Valorem. If revisions are appropriate based on the composition of those accounts at the time of jurisdictional separation, the Company will reflect such revisions in the actual separation of EGS's balance sheet.

69. The Company will complete the specific assignment process of general and intangible plant assets, to the extent possible, in the actual separation of the EGS balance sheet.

G. Review Procedures

1. Pre-Separation Review

Based on the assumption that the Commission approves a plan of separation that is in the public interest and acceptable to the Company, the Commission will have to establish procedures to ensure that the plan of separation is implemented consistent with the terms and conditions set forth in the Commission's approved plan. The Staff proposes that the Commission undertake a review of the final separation documents, separation methodologies, and implementation plan shortly before the separation is implemented. Although the Company does not agree with the full extent of the proposed pre-separation review, it does agree to provide copies of certain filings and documents to the Staff for review prior to the separation.

Based on the assumption that the Commission approves a plan of separation acceptable to the Company, the Company will immediately begin the process of making the appropriate filings with the Nuclear Regulatory Commission ("NRC") and the FERC necessary to effectuate the terms and conditions of the approved plan of separation.

The Company will also begin the process of finalizing the documents, to the extent practical, in advance of receiving the requisite orders of the NRC and the FERC. Once those orders are received, they will be transmitted to the Commission, its consultants and Special Counsel for a determination of whether they are consistent with the Commission's previously approved plan of separation. If they are consistent, the Company will finalize the required documents. If they are inconsistent, the Commission and the Company will have to determine whether those differences are acceptable and whether the Company should proceed with the separation consistent with the terms of those orders. Assuming the Company agrees to and is authorized to continue with the process of separation, the Company will provide the Commission, its consultants and Special Counsel, all of the required documents for the sole purpose of determining whether they conform to the terms and conditions of the approved JSP.

The Company also will obtain opinions of outside counsel licensed to practice law in the relevant jurisdiction concerning (1) the organization, its existence and good standing of the parties to the documents; (2) that the documents have been duly authorized, executed and delivered by the respective parties thereto; (3) that the documents are the binding obligations of the parties thereto, enforceable against them in accordance with their respective terms; and, (4) that the documents are consistent with the terms of all applicable regulatory approvals.[64]

The Company cannot commit to when these final documents and related opinions will be provided to the Commission.[65] That is a function of when the requisite regulatory approvals have been received. It is the Company's goal to complete the separation no later than December 31, 2007; a delay of even one day beyond that date will preclude the Company from providing customers the benefit of the conversion to an L.L.C. for at least another year.

Certain of the documents will be dependent on data that will not be available until approximately 75 days prior to separation. For example, the allocation percentages that will be used to allocate certain generation facilities and used in the PPAs will be based on load data for the latest twelve months ending three months prior to the date of separation.[66]

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[64] Rebuttal Test. of Bruce M. Louiselle, Ex. EGS 5, at 36(10-16).

[65] Tr. Hr'g conducted on September 26, 2006 at 217-218.

[66] Dir. Test. of Bruce M. Louiselle, Ex. EGS 4, at 18(21)-19(7).

Other documents, such as the schedules accompanying the DAA cannot be finally completed until the separation is completed, as they will be based on the asset allocation as of the date of separation.

2. Post-Separation Review

The Staff proposes that, after implementing the separation, the Commission conduct a post-separation audit to ensure that the balance sheet assets and liabilities were separated and the revenues and expenses are allocated and recognized between EGS-LA and EGS-TX in accordance with the Commission's Order approving the JSP as modified herein. The Company agrees that it will provide the Commission the information necessary to conduct this audit in accordance with the following schedule and agrees that it will cooperate with the Staff and Special Counsel in their review.

- The Company will provide the Commission official notice that the separation has taken place within ten business days of the first day of the existence of the separated companies.

- On or before three months after the date of jurisdictional separation, the Company will make a balance sheet compliance filing in this Docket with the Commission. The filing will provide all details of the actual separations based upon the EGS balance sheet amounts at December 31, 200__ [day before separation date] in accordance with the separation methodology. Such filing will include sufficient detail to replicate the Company's computations and include all assumptions, data, and formulas necessary to do so, including electronic spreadsheets with formulas intact. In addition, such filing will include all journal entries on the books of EGS to accomplish the separations.

- As soon as the information is available for the first calendar quarter after the date of jurisdictional separation, the Company will make a revenues and expenses compliance filing in this Docket with the Commission. The filings will provide all details of the separated revenues and expenses recognized by EGS-LA and EGS-TX for the first calendar quarter after the date of jurisdictional separation. Such filing will include sufficient detail to replicate the Company's computations, including, but not limited to, the charges from Entergy Services, Inc. ("ESI") and Entergy Operations, Inc. ("EOI") to EGS-LA and EGS-TX. Such filing will include all assumptions, data, and formulas, including any electronic spreadsheets, if used, with formulas intact. Such filing also will include the billing methods and data used to develop the ESI and EOI allocation factors and the methodologies and workpaper support for the EGS-LA billings to EGS-TX for Nelson 6 costs.

- The sole purpose of the two compliance filings will be to provide information necessary to permit the determination of whether the actual separation comports with the terms and conditions of the Commission's Order approving the JSP as modified herein. There will be no change in rates and charges at EGS-LA as a result of the reviews, except to the extent that the amounts for the Rider CF and T are affected. For a period of sixty days after each of the compliance filings, the Company will make available knowledgeable personnel to assist in the review of the actual separations, if necessary by deposition, and will provide responses to written requests for data. Upon the conclusion of each sixty-day review period, any party may file in this Docket a pleading identifying issues, if any, regarding the Company's compliance filing. Such pleading shall set forth the issue(s) in sufficient detail so that the Company may replicate the Staff's review process. To the extent that there are issues between the parties as to whether the separation complies with the terms of the Commission's Order approving the JSP as modified herein, the parties agree that they will negotiate in good faith to resolve those issues. The resolution process as to these issues shall be completed by no later than six months after the date the actual separation occurs for the balance sheet separation and six months after the revenues and expenses compliance filing. If at the end of the six month periods, there are no unresolved issues with respect to the Company's balance sheet and revenues and expenses compliance filings, respectively, the separation shall be approved in a final order to be issued at the Commission's next Business and Executive Meeting.

- In the event some issues cannot be resolved by the parties within six months after the actual separation date for the balance sheet compliance filing and within six months after the revenues and expenses compliance filing, respectively, then it will be incumbent upon the party wishing to obtain resolution of those issues to file within fifteen days of the termination of the respective six-month periods, a formal pleading with the Commission setting forth with specificity the issue, the separation methodology that is alleged to have been violated, the basis for the allegation of the existence of a violation and the proposed remedy. Other parties shall have fifteen days to respond to such pleading. If a hearing is necessary with respect to unresolved issue[s], an expedited procedure shall be used that provides for the issuance of a final Order by the Commission at its next Business and Executive Meeting. If a final recommendation with respect to the subject matter of the hearing has not been issued by ten days before the Business and Executive Meeting, the matter will be deemed certified for the issuance of a final Order by the Commission at its next Business and Executive Meeting. Each party further agrees that regardless of how the Commission ultimately decides to address the unresolved issue[s] arising from the actual separation implemented pursuant to the separation methodology, if any, no other review proceeding shall be conducted by the Commission with respect to the correctness of the actual separations provided for in the separation methodology. Nothing herein shall preclude the Commission in subsequent proceedings from considering whether future filings comply with this Order.[67]

FINDINGS OF FACT

70. The Staff proposes that the Commission undertake a review of the final documents, separation methodologies, and implementation plan shortly before the separation is implemented.

71. The Company does not agree with the full extent of the proposed pre-separation review; however, it does agree to provide copies of certain filings and documents to the Staff for review prior to the separation. The purpose of the pre-separation review by the Staff will be.to determine whether the legal documents are consistent with the Commission's regulatory approvals. In addition, EGS proposes that it obtain the legal opinions of qualified outside counsel licensed in the relevant jurisdictions stating that the legal documents are consistent with the

[67] Dir. Test. of Lane Kollen, Ex. Staff 21, Ex. LK-6.

terms of all applicable regulatory approvals. EGS also proposes that, prior to separation, it provide information to the Commission regarding other necessary regulatory filings and approvals for the separation.

72. The Staff proposes that, after implementing the separation, the Commission order EGS to make a compliance filing to ensure that the EGS balance sheet is properly separated between EGS-LA and EGS-TX at the date of separation and to ensure that the revenues and expenses for a three month period after the separation are properly separated between EGS-LA and EGS-TX. Unlike the balance sheet separation, which will be implemented contemporaneous with the physical and legal separation, the revenues and expenses will be separated only prospectively and cannot be reviewed by the Staff until there is some actual history of these amounts.

73. The Company agrees to make two filings, one for the balance sheet separation and another for the revenues and expenses separation. These compliance filings and the Staff reviews will be for the purpose of determining whether the separation of the EGS assets, liabilities, revenues and expenses comports with the Commission's Order approving the separation.

74. The scope of the Staff's proposed post-separation review includes a review of the separation of the EGS balance sheet assets and liabilities between EGS-LA and EGS-TX and a review of three months of EGS-LA and EGS-TX actual revenues and expenses post-separation to ensure that the separation was implemented in accordance with the terms established by the Commission in its Order approving the separation.

75. The following procedures shall be followed:

> The Company shall provide to the Commission and its Staff copies of all filings made with other regulatory bodies relating to the jurisdictional separation of EGS.
>
> The Company shall provide to the Commission and its Staff copies of all orders received from the regulatory bodies relating to the jurisdictional split of EGS.
>
> The Commission shall issue an Order stating whether there are any provisions in the other regulators' orders that it finds objectionable.
>
> The Company shall provide to the Commission and its Staff copies of all documents as they are available in final form along with associated Opinions of Counsel.
>
> The Commission and its Staff shall review the documents for the sole purpose of determining whether there is any inconsistency between the documents and the Commission's approved plan of separation.
>
> The Company shall notify the Commission and its Staff within ten business days following the actual separation that the separation has occurred.

76. The following additional procedures shall be required:

- On or before three months after the date of jurisdictional separation, the Company will make a balance sheet compliance filing in this Docket with the Commission. The filing will provide all details of the actual separations based upon the EGS balance sheet amounts at December 31, 200__ [day before separation date] in accordance with the separation methodology. Such filing will include sufficient detail to replicate the Company's computations and include all assumptions, data, and formulas necessary to do so, including electronic spreadsheets with formulas intact. In addition, such filing will include all journal entries on the books of EGS to accomplish the separations.

- As soon as the information is available for the first calendar quarter after the date of jurisdictional separation, the Company will make a revenues and expenses compliance filing in this Docket with the Commission. The filings will provide all details of the separated revenues and expenses recognized by EGS-LA and EGS-TX for the first calendar quarter after the date of jurisdictional separation. Such filing will include sufficient detail to replicate the Company's computations, including, but not limited to, the charges from Entergy Services, Inc. ("ESI") and Entergy Operations, Inc. ("EOI") to EGS-LA and EGS-TX. Such filing will include all assumptions, data, and formulas, including any electronic spreadsheets, if used, with formulas intact. Such filing also will include the billing methods and data used to develop the ESI and EOI allocation factors and the methodologies and workpaper support for the EGS-LA billings to EGS-TX for Nelson 6 costs.

- The sole purpose of the two compliance filings will be to provide information necessary to permit the determination of whether the actual separation comports with the terms and conditions of the Commission's Order approving the JSP as modified herein. There will be no change in rates and charges at EGS-LA as a result of the reviews, except to the extent that the amounts for the Rider CF and T are affected. For a period of sixty days after each of the compliance filings, the Company will make available knowledgeable personnel to assist in the review of the actual separations, if necessary by deposition, and will provide responses to written requests for data. Upon the conclusion of each sixty-day review period, any party may file in this Docket a pleading identifying issues, if any, regarding the Company's compliance filing. Such pleading shall set forth the issue(s) in sufficient detail so that the Company may replicate the Staff's review process. To the extent that there are issues between the parties as to whether the separation complies with the terms of the Commission's Order approving the JSP as modified herein, the parties agree that they will negotiate in good faith to resolve those issues. The resolution process as to these issues shall be completed by no later than six months after the date the actual separation occurs for the balance sheet separation and six months after the revenues and expenses compliance filing. If at the end of the six month periods, there are no unresolved issues with respect to the Company's balance sheet and revenues and expenses compliance filings, respectively, the separation shall be approved in a final order to be issued at the Commission's next Business and Executive Meeting.

  In the event some issues cannot be resolved by the parties within six months after the actual separation date for the balance sheet compliance filing and within six months after the revenues and expenses compliance filing, respectively, then it will be incumbent upon the party wishing to obtain resolution of those issues to file within fifteen days of the termination of the respective six month periods, a formal pleading with the Commission setting forth with specificity the issue, the separation methodology that is alleged to have been violated, the basis for the allegation of the existence of a violation and the proposed remedy. Other parties shall have fifteen days to respond to such pleading. If a hearing is

> necessary with respect to unresolved issue[s], an expedited procedure shall be used that provides for the issuance of a final Order by the Commission at its next Business and Executive Meeting. If a final recommendation with respect to the subject matter of the hearing has not been issued by ten days before the Business and Executive Meeting, the matter will be deemed certified for the issuance of a final Order by the Commission at its next Business and Executive Meeting. Each party further agrees that regardless of how the Commission ultimately decides to address the unresolved issue[s] arising from the actual separation implemented pursuant to the separation methodology, if any, no other review proceeding shall be conducted by the Commission with respect to the correctness of the actual separations provided for in the separation methodology. Nothing herein shall preclude the Commission in subsequent proceedings from considering whether future filings comply with this Order.

77. The Company's proposal regarding its obtaining the opinions of outside counsel shall be required:

> EGS will obtain for the Commission's review opinions to EGS of outside counsel licensed to practice law in the relevant jurisdiction concerning (1) the organization, its existence and good standing of the parties to the documents; (2) that the documents have been duly authorized, executed and delivered by the respective parties thereto; (3) that the documents are the binding obligations of the parties thereto, enforceable against them in accordance with their respective terms; and (4) that the documents are consistent with the terms of all applicable regulatory approvals.

H. Flow Through of Cost Reductions

The Commission's approval of the JSP, including the conversion of EGS-LA to an L.L.C., would benefit customers in Louisiana in two ways. First, they would no longer be responsible for Louisiana corporate franchise tax. Second, the situs allocation of transmission plant is expected to reduce the transmission-related revenue requirement needed to be recovered from Louisiana customers.

The sooner the separation is completed the sooner these benefits may reaped by EGS-LA's customers. The conversion of EGS-LA to a Louisiana L.L.C. will result in elimination of Louisiana corporate franchise tax liability in the ensuing calendar year. Thus, if separation is completed no later than December 31, 2007, there will be no liability for that tax in 2008. However, if the separation is not completed until, say, January 1, 2008, the franchise tax will not be eliminated until 2009. The Company commits to provide the cost reductions to customers associated with the separation on the basis as described herein.

FINDINGS OF FACT

78. The following provisions shall be required so that EGS-LA's customers receive cost reductions associated with the separation on an accelerated basis:

1. Franchise Tax Reduction and Recovery of Separation Costs

EGS-LA will institute a base rate reduction in the first billing cycle of the February following the successful completion of the separation, such that EGS-LA will not incur a Louisiana corporate franchise tax for that year of which that January is the first month.

a. The base rate reduction will be reflected in a Corporate Franchise Tax Rider ("Rider CF"). The amount of the Rider CF shall be equal to the difference between the Louisiana corporate franchise tax reflected in base rates, which is currently approximately $8 million, and the annualized amortization of the costs incurred to accomplish the separation and conversion.

b. The costs incurred to accomplish the separation and conversion (the "separation costs") shall be those verifiable, incremental costs recorded under a separate project code allocated to EGS-LA on a responsibility ratio basis, plus one-hundred percent (100%) of the costs incurred to redeem the existing preferred stock.

c. The annualized amortization of the separation costs shall be equal to twelve months of a thirty-one month amortization, where the constant monthly amount reflects a return of those costs and a return at the approved overall rate of return on the net of tax unamortized balance.

d. The Company shall provide a detailed accounting of the actual separation costs to the Commission Staff for its review and approval. The data will be made available such that the Staff review can be completed prior to the implementation of the Company's next FRP filing.

e. The base rate change shall be imposed via Rider CF applicable to the same rate schedules and derived in the same manner as set forth in paragraph 2.C.4. of EGS's Formula Rate Plan ("FRP"), approved by the Louisiana Public Service Commission in Consolidated Order Nos. U-19904-D, U-22491, U-23358, U-24182, U-24993, U-25533, U-25687, U-25888, U-26527, and U-27865, dated April 29, 2005.

f. The base rate change derived as set forth in sub-paragraph (a) and implemented through Rider CF shall remain in place unless and until otherwise ordered by the Commission. After the expiration of the amortization of the separation costs, Rider CF shall flow through to customers all of the cost reduction for the Louisiana Corporate Franchise Tax.

Consistent with paragraph 3.A.2. of EGS's FRP, the effects of the conversion to an LLC shall not be subject to the sharing mechanism of the FRP. To accomplish that goal, the following adjustments shall be made to EGS's Evaluation Reports for the three-year period set forth in the FRP:

g. None of the costs incurred in connection with the separation are to be reflected.

h. The Louisiana corporate franchise tax expense shall be *pro formed* to reflect as an expense the Louisiana corporate franchise tax reflected in base rates, which is currently approximately $8 million, set forth in Paragraph 1.a., above.

i. The test year revenue shall not be reduced by the amount of the Rider CF.

2. Transmission Revenue Requirement Reduction

EGS-LA will institute a base rate reduction via a rider ("Rider T") within six months following the effective date of the separation equal to the difference between the transmission-related revenue requirement then reflected in EGS's

Louisiana retail base rates and the transmission-related revenue requirement consistent with the terms and conditions of the approved separation.

Within one-hundred fifty (150) days following the effective date of separation, the Company will file an estimate of the effect of separation on the transmission-related revenue requirement containing the following:

a. A calculation of the actual transmission-related revenue requirement reflected in existing base rates, which shall reflect the pre-tax return of and on the transmission rate base allocated to EGS Louisiana retail operations, plus the allocated portion of transmission-related operation and maintenance and other tax expense, plus the allocated MSS-2 charges or receipts. All data used to derive this transmission-related revenue requirement are to be based on the most recent test year used to make the EGS-LA FRP filings;

b. An estimated transmission-related revenue requirement, which shall be consistent with the terms and conditions of separation and shall contain the same components as set forth in Paragraph a. above and shall be based on the data for the same test year;

c. The transmission-related revenue requirement consistent with the terms of 2.b. above shall be determined for each calendar year subsequent to the separation (For example, if separation occurs on December 31, 2007, the first calendar year subsequent to that would be calendar year 2008.);

d. The difference in the transmission-related revenue requirement (based on 2.a. and 2.b.) shall be included in the initial Rider T in the first billing cycle of the second month following the filing of the report. (For example, if the report is filed May 31, 2008, the Rider T reflecting the change in the transmission-related revenue requirement would be effective in the first billing cycle of July 2008); The Rider shall be revised to reflect the difference in the transmission-related revenue requirement based on 2.a. and 2.c. annually.

e. The Rider T shall remain in effect for 50 months (or until the credit becomes negative, whichever event occurs first). At the end of the 50 months (or shorter period if the credit has become negative), the base rate reduction reflected in the Rider T shall cease and the savings should thereafter be reflected in the calculation of EGS-LA's annual revenue requirement; and

f. In the EGS-LA FRP filing made subsequent to a change in the Rider T, the FRP Evaluation Report shall be pro formed to reflect the transmission-related revenue requirement calculated in 2.a. above and the test year revenue shall not be reduced to reflect the Rider T credit, so long as the Rider T is in effect

g. The differential calculated pursuant to 2.d. based on 2.a. and 2.b. shall be multiplied by a fraction, the numerator of which shall be the number of months from the effective date of the separation to the date the Rider T set forth in 2.d. takes effect and the denominator of which is 12. That amount shall be amortized over the first 12 months the Rider T is in effect and reflected in said Rider T.

I. Conditions for Proceeding with Implementation of JSP

The Company has addressed the conditions under which EGS would not proceed with jurisdictional separation after approval by the Commission. As explained by Mr. McNeal, if the Company cannot obtain reasonable assurances from the rating agencies that the JSP will not cause a downgrade such that upon jurisdictional separation EGS-LA's and EGS-TX's credit ratings would not be what they are today, the Company will not proceed with the JSP.[68] In addition, if the Company's credit ratings are downgraded at any time before the implementation of the JSP, the Company will not proceed with the JSP until its credit ratings improve.[69] Alhough the Staff did not address these conditions, there appears to be no dispute as to this part of the Company's JSP. These conditions are reasonable and are necessary to ensure that EGS-LA and EGS-TX will have access to capital markets on reasonable terms and that each company will be able to satisfy its financial obligations.[70]

FINDINGS OF FACT

79. The Company's JSP identifies conditions under which EGS will not proceed with jurisdictional separation after approval by the Commission.

80. If the Company cannot obtain reasonable assurances from the rating agencies that the JSP will not cause a downgrade such that upon jurisdictional separation EGS-LA's and EGS-TX's credit ratings would not be equal to EGS's credit ratings prior to separation, the Company will not proceed with the JSP.

81. In addition, if the Company's credit ratings are downgraded at any time before the implementation of the JSP, the Company will not proceed with the JSP until its credit ratings improve to an acceptable level.

J. Sunset Provisions

The Staff asserts the Commission should not authorize the jurisdictional separation on an open-ended basis, but should impose a time limitation on its approval. The Staff alleges that its concern is highlighted by the fact as of 2001 that there is an outstanding settlement of the overall business separation for EGS upon retail open access in Texas and a separate settlement of the transmission distribution issues. The settlement reflected the terms of a business separation of EGS into five (5) separate companies predicated on EGS moving to retail open access, and that the business separation was never be completed at the direction of the PUCT. Specifically, the Staff proposes:

> The approval of the separation plan will expire on January 1, 2008 if the separation is not actually implemented on or before December 31, 2007.

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[68] Dir. Test. of Steven C. McNeal, Ex. EGS 9, at 17(15-19).

[69] *Id.* at 17(19-22).

[70] *Id.* at 12(4-11).

> However, the Commission may extend its approval by up to six months at a time upon request by the Company filed in this Subdocket at least 60 days or more prior to the then-effective expiration of the Commission's approval and the Commission's determination that the separation remains in the public interest. Such a request should be accompanied by an explanation as to why the separation has not actually been implemented or will not be implemented within the period approved, a statement that there have been no changes in the facts and circumstances relied on by the Commission for its initial approval in this proceeding, or if there have been such changes in the facts and circumstances, a statement identifying and describing each relevant change and the effect the Company believes such change will have on the actual separation when it is implemented. The request shall be provided to the Commission's special counsel and consultants, who shall review it and report to the Commission.

The Company does not object to the inclusion of a time limitation in the Commissions Order, but in light of the fact that both FERC and NRC approval are required, the Company asserts the approval should not expire until January 1, 2009. The Company does not control when it will receive other necessary regulatory approvals or whether other parties will intervene in those proceedings, which could result in protracted litigation. Thus, the Company argues that limiting the approval period to December 31, 2007 is unreasonable[71] and may cause unnecessary expenditure of time and expenses to the detriment of customers if the Company is required to petition for an extension of the approval every six months after the expiration date while waiting for other regulatory approvals. Instead, the Company suggests that the Commission approval should expire on December 31, 2008.

FINDINGS OF FACT

82. The Company and Staff agree that the Commission should not adopt an open-ended approval and should impose a time by which if the jurisdictional separation has not occurred that its approvals will expire but do not agree on what that time should be.

83. The Commission requires the following provision:

> The approval of the separation plan will expire on January 1, 2009 if the separation is not actually implemented on or before December 31, 2008. However, the Commission may extend its approval by up to six months at a time upon request by the Company filed in this Subdocket at least 60 days or more prior to the then-effective expiration of the Commission's approval and the Commission's determination that the separation remains in the public interest. Such a request should be accompanied by an explanation as to why the separation has not actually been implemented or will not be implemented within the period approved, a statement that there have been no material changes in the facts and circumstances relied on by the Commission for its initial approval in this proceeding, or if there have been such changes in the facts and circumstances, a statement identifying and describing each relevant change and the effect the Company believes that each such change will have on the actual separation when it is implemented. The request shall be provided to the Commission's special counsel and consultants, who shall review it and report to the Commission.

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[71] Tr. Hr'g conducted on September 28, 2006 at 68 (Mr. Baron testifying that for a case to take two years at the FERC would not be unusual in his opinion).

K. LPSC Orders from Subdocket B

The Staff and the Company agree as a procedural matter, Commission Orders from Subdocket B, which the Commission closed before opening this Subdocket J, should be vacated, including a July 31, 2001 Interim Order approving the May 21, 2001 Settlement Term Sheet, which provided a general business structure for separating EGS's Louisiana and Texas jurisdictional assets; and the September 19, 2001 approval by the LPSC of the July 30, 2001 Transmission and Distribution Term Sheet that attached a number of form agreements (no written order was issued).

FINDINGS OF FACT

81. Because Subdocket B has been closed and because many aspects of the Commission's approvals have been rendered moot and/or changed by aspects of the Company's Plan in this Subdocket J, the two above-identified orders/approvals should be vacated.

VI. ORDERING PARAGRAPHS

IT IS HEREBY DETERMINED AND ORDERED that the Proposed Findings of Fact set forth in the Proposed Order are adopted, that the EGS Jurisdictional Separation Plan, as modified herein, is in the public interest and complies with all of the provisions of the Commission's General Ordered dated March 18, 1994, and that the Commission approves EGS's JSP, as described in more detail below and as modified herein.

1. EGS shall separate into two vertically integrated entities pursuant to the sequential restructuring steps consistent with those described in the JSP or their functional equivalent.

2. The separated utilities are hereinafter referred to as "EGS-LA" and "EGS-TX". EGS-LA shall serve retail customers located in the State of Louisiana and all of the wholesale customers served by Entergy Gulf States, Inc. at the time of separation.

3. EGS shall separate EGS's transmission and distribution assets (and liabilities) based on situs; the separation of the transmission assets shall be subject to the following condition:

    Texas customers will bear the incremental transmission costs that are incurred solely as a result of EGS-TX joining ERCOT or SPP. If EGS-LA incurs costs to maintain the reliability of the transmission system in Louisiana solely as a result of EGS-TX joining ERCOT or SPP (and such costs would not otherwise have been required), such costs, including the effects of changes in MSS-2 costs, should not be borne by EGS-LA customers except to the extent such costs, including the effects of changes in MSS-2 costs, are offset by benefits to EGS-LA customers. To the extent that there are such costs that are not offset by benefits, those should be borne by Texas customers. Accordingly, the Company's position before any regulator having jurisdiction over cost responsibility for incremental transmission costs that are incurred solely as a result of EGS-TX joining ERCOT or SPP will be consistent with this principle. A determination of the net transmission costs caused by EGS TX joining ERCOT shall reflect an incremental analysis of the costs and benefits of the new investment, net of incremental benefits as a result of EGS TX going to ERCOT, including benefits to EGS-LA under FERC Opinion No. 480 that result from EGS-TX's departure from the System Agreement. The transmission cost savings realized from the separation itself, including the reduction of Louisiana transmission investment and the reduction of MSS-2 responsibility because of the then-existing power transmission facilities in Louisiana, shall not be factored into the calculation.

4. EGS shall separate EGS's generation assets (and liabilities) on the basis of responsibility ratio, either through ownership or the purchase of capacity and energy equal to their relative responsibility ratios.

5. EGS shall separate its generation assets (and liabilities) as set forth in the JSP and summarized in Appendix 1 and attached to this Order and shall be subject to the following:

   a. The EGS-TX's and EGS-LA's responsibility ratio shall be calculated as follows:

      The EGS-TX responsibility ratio will be based on the twelve-month coincident peak demands of the EGS-TX retail load and the EGS-LA responsibility ratio will reflect the Louisiana retail and all EGS's wholesale loads. These responsibility ratios will be calculated consistent with the definition contained in Section 2.16(a) of the Entergy System Agreement. Such load responsibility shall be calculated for the most recent twelve months that pre-dates the actual separation by three months.

   b. As a condition to its Order, the Commission requires that the legal documents effecting the separation of EGS provide that EGS-LA and EGS-TX be each responsible for their respective responsibility ratio share of the nuclear and environmental liabilities associated with the regulated seventy percent (70%) portion of River Bend.

   c. As a condition to its order, the Commission requires the legal documents effecting the separation of EGS provide that, in the event that EGS-TX assigns or otherwise conveys the River Bend PPA to a third party, EGS-LA will be adequately protected from the risk associated with nuclear and environmental liabilities allocated to EGS-TX in the separation.

   d. EGS-LA will not attempt to recover from EGS-LA retail customers any costs associated with the Unregulated River Bend 30%, including nuclear and environmental costs, such as decommissioning, spent fuel, and nuclear accidents.

   e. The Spindletop regulatory asset shall be assigned to and owned by EGS-TX. During the term of the PPA with respect to Sabine station, EGS-TX shall bill EGS-LA the annual revenue requirement associated with the Spindletop regulatory asset calculated in a manner consistent with the manner in which it is calculated currently by the LPSC regulated jurisdiction.

   f. The Joint Owner Billing Process Agreement ("JOBPA") submitted with the JSP will govern the billing of costs from EGS-LA to EGS-TX associated with the operation of Nelson 6 and will be amended before the implementation of the JSP to include more detail as to the billing. None of the carrying costs incurred by EGS-LA on behalf of EGS-TX, if any, will be assessed to EGS-LA retail customers. The amended JOBPA will be submitted with the Company's post-separation compliance filing. In connection therewith, EGS-TX will pay its share of the Nelson 6 rail car leases expenses in a manner that maintains the status quo.

g. EGS-LA will not renew contracts with any of the Texas wholesale customers at their expiration, or if it does renew those contracts and EGS-TX enters ERCOT, EGS-LA will insure that EGS-LA's retail customers pay none of the costs relating to any DC transmission tie or other incremental transmission investment necessary for EGS-LA to serve the wholesale customers in Texas.

6. EGS shall accomplish the separation of EGS's long-term debt through a DAA. Section 3 of the DAA will be amended to include the following:

   (d.) Unless and until the Assumption Party has paid all of the Assumed Debt and otherwise satisfied all of its obligations hereunder, the Assumption Party shall not sell, lease, transfer or otherwise dispose of all or substantially all of the assets allocated to it in accordance with the Jurisdictional Separation. This provision, however, does not affect the rights of the Assumption Party to effect a partial release of the Mortgaged Property as provided for in Section 6 of the Security Agreements in accordance with the terms therein.

7. EGS shall use the accounting methodology reflected in the Balance Sheet Model submitted with the JSP to separate EGS's balance sheet at the time of separation subject to the following:

   a. EGS will reduce the number of manual inputs and external links in the Balance Sheet Model, to the extent practicable, while maintaining the functionality of the Balance Sheet Model, when it performs the actual separation of EGS's balance sheet.

   b. EGS will evaluate whether further refinement of the allocation of Accounts 142, 14611, 14613, and 143012 is feasible when it performs the actual separation of EGS's balance sheet.

   c. EGS will evaluate whether the allocation of balances in the following accounts should include allocations to the Unregulated 30% Portion of River Bend and EGS-LA's gas and steam operations: Accounts Payable, Accounts Payable-Oracle, Accounts Payable Oracle Outstanding Checks, Accounts Payable – SAIC, General Accounting Month End and Year End Accruals, Reserve for Injuries and Damages – "Schedule 8 – Accumulated Provs," Accrued Taxes – Ad Valorem. If revisions are appropriate based on the composition of those accounts at the time of jurisdictional separation, the Company will reflect such revisions in the actual separation of EGS's balance sheet.

   d. EGS will complete the specific assignment process of general and intangible plant assets, to the extent possible.

8. The Commission approves the following procedures for review of the jurisdictional separation:

   a. Before implementing the JSP, the Company shall provide to the Commission and its Staff copies of all filings made with other regulatory bodies relating to the jurisdictional separation of EGS.

   b. Before implementing the JSP, the Company shall provide to the Commission and its Staff copies of all orders received from the other regulatory bodies relating to the jurisdictional separation of EGS.

c. Before implementing the JSP, the Commission shall issue an Order stating whether there are any provisions in the other regulators' orders that it finds objectionable.

d. Before the JSP is implemented, the Company shall provide to the Commission and its Staff copies of all documents as they are available in final form.

e. Before the JSP is implemented, the Commission and its Staff shall review the documents for the sole purpose of determining whether there is any inconsistency between the documents and the Commission's approved plan of separation.

f. The Company shall notify the Commission and its Staff within ten business days following the actual separation that the separation has occurred.

g. On or before three months after the date of jurisdictional separation, the Company will make a balance sheet compliance filing in this Docket with the Commission. The filing will provide all details of the actual separations based upon the EGS balance sheet amounts at December 31, 200__ [day before separation date] in accordance with the separation methodology. Such filing will include sufficient detail to replicate the Company's computations and include all assumptions, data, and formulas necessary to do so, including electronic spreadsheets with formulas intact. In addition, such filing will include all journal entries on the books of EGS to accomplish the separations.

h. As soon as the information is available for the first calendar quarter after the date of jurisdictional separation, the Company will make a revenues and expenses compliance filing in this Docket with the Commission. The filings will provide all details of the separated revenues and expenses recognized by EGS-LA and EGS-TX for the first calendar quarter after the date of jurisdictional separation. Such filing will include sufficient detail to replicate the Company's computations, including, but not limited to, the charges from Entergy Services, Inc. ("ESI") and Entergy Operations, Inc. ("EOI") to EGS-LA and EGS-TX. Such filing will include all assumptions, data, and formulas, including any electronic spreadsheets, if used, with formulas intact. Such filing also will include the billing methods and data used to develop the ESI and EOI allocation factors and the methodologies and workpaper support for the EGS-LA billings to EGS-TX for Nelson 6 costs.

i. The sole purpose of the two compliance filings will be to provide information necessary to permit the determination of whether the actual separation comports with the terms and conditions of the Commission's Order approving the JSP as modified herein. There will be no change in rates and charges at EGS-LA as a result of the reviews, except to the extent that the amounts for Rider CF and/or Rider T are affected. For a period of sixty days after each of the compliance filings, the Company will make available knowledgeable personnel to assist in the review of the actual separations, if necessary by deposition, and will provide responses to written requests for data. Upon the conclusion of each sixty-day review period, any party may file in this Docket a pleading identifying issues, if any, regarding the Company's compliance filing. Such pleading shall set forth the issue(s) in sufficient detail so that the Company may replicate the Staff's review process. To the extent that there are issues between the parties as to whether the separation complies with the terms of the Commission's Order approving the JSP as modified herein, the parties agree that they will negotiate in good faith to resolve those issues. The resolution process as to these issues shall be completed by no later than six months after the date the actual separation occurs for the balance sheet separation and six months after the revenues and expenses compliance filing. If at the end of the six month periods, there are no unresolved issues with respect to the Company's balance sheet and revenues and expenses compliance filings, respectively, the separation shall be approved in a final Order to be issued at the Commission's next Business and Executive Meeting.

In the event some issues cannot be resolved by the parties within six months after the actual separation date for the balance sheet compliance filing and within six months after the revenues and expenses compliance filing , respectively, then it will be incumbent upon the party wishing to obtain resolution of those issues to file within fifteen days of the termination of the respective six month periods, a formal pleading with the Commission setting forth with specificity the issue, the separation methodology that is alleged to have been violated, the basis for the allegation of the existence of a violation and the proposed remedy. Other parties shall have fifteen days to respond to such pleading. If a hearing is necessary with respect to unresolved issue[s], an expedited procedure shall be used that provides for the issuance of a final Order by the Commission at its next Business and Executive Meeting. If a final recommendation with respect to the subject matter of the hearing has not been issued by ten days before the Business and Executive Meeting, the matter will be deemed certified for the issuance of a final Order by the Commission at its next Business and Executive Meeting. Each party further agrees that regardless of how the Commission ultimately decides to address the unresolved issue[s] arising from the actual separation implemented pursuant to the separation methodology, if any, no other review proceeding shall be conducted by the Commission with respect to the correctness of the actual separations provided for in the separation methodology. Nothing herein shall preclude the Commission in subsequent proceedings from considering whether future flings comply with this Order.

j. EGS will obtain for the Commission's review opinions to EGS of outside counsel licensed to practice law in the relevant jurisdiction concerning (1) the organization, its existence and good standing of the parties to the documents; (2) that the documents have been duly authorized, executed and delivered by the respective parties thereto; (3) that the documents are the binding obligations of the parties thereto, enforceable against them in accordance with their respective terms; and (4) that the documents are consistent with the terms of all applicable regulatory approvals.

9. EGS shall flow through cost reductions associated with the jurisdictional separation as set forth below:

1. Franchise Tax Reduction and Recovery of Separation Costs

EGS-LA will institute a base rate reduction in the first billing cycle of the February following the successful completion of the separation, such that EGS-LA will not incur a Louisiana corporate franchise tax for that year of which that January is the first month.

a. The amount of the base rate reduction, to be reflected in the Rider CF, shall be equal to the difference between the Louisiana corporate franchise tax reflected in base rates, which is currently approximately $8 million, and the annualized amortization of the costs incurred to accomplish the separation and conversion.

b. The costs incurred to accomplish the separation and conversion (the "separation costs") shall be those verifiable, incremental costs recorded under a separate project code allocated to EGS-LA on a responsibility ratio basis, plus one-hundred percent (100%) of the costs incurred to redeem the existing preferred stock.

c. The annualized amortization of the separation costs shall be equal to twelve months of a thirty-one month amortization, where the constant monthly amount reflects a return of those costs and a return at the approved overall rate of return on the net of tax unamortized balance.

d. The Company shall provide a detailed accounting of the actual separation costs to the Commission Staff for its review and approval. The data will be made available such that the Staff review can be completed prior to the implementation of the Company's next FRP filing.

e. The base rate change shall be imposed via Rider CF applicable to the same rate schedules and derived in the same manner as set forth in paragraph 2.C.4. of EGS's Formula Rate Plan ("FRP"), approved by the Louisiana Public Service Commission in Consolidated Order Nos. U-19904-D, U-22491, U-23358, U-24182, U-24993, U-25533, U-25687, U-25888, U-26527, and U-27865, dated April 29, 2005.

f. The base rate change derived as set forth in sub-paragraph a and implemented through the Separation Rider shall remain in place unless and until the Commission orders otherwise. After the expiration of the amortization of separation costs, Rider CF shall flow through to customers the full reduction of Louisiana Corporate Franchise Tax expense.

g. Consistent with paragraph 3.A.2. of EGS's FRP, the effects of the conversion to an L.L.C shall not be subject to the sharing mechanism of the FRP. To accomplish that goal, the following adjustments shall be made to EGS's Evaluation Reports in the FRP:

   i. None of the costs incurred in connection with the separation are to be reflected.

   ii. The Louisiana corporate franchise tax expense shall be pro formed to reflect as an expense the Louisiana corporate franchise tax reflected in base rates, which is currently approximately $8 million, set forth in Paragraph 1.a., above.

   iii. The test year revenue shall not be reduced by the amount of the Separation Rider.

2. Transmission Revenue Requirement Reduction

EGS-LA will institute a base rate reduction via a rider ("Rider T") within six months following the effective date of the separation equal to the difference between the transmission-related revenue requirement then reflected in EGS's Louisiana retail base rates and the transmission-related revenue requirement consistent with the terms and conditions of the approved separation.

Within one-hundred fifty (150) days following the effective date of separation, the Company will file an estimate of the effect of separation on the transmission-related revenue requirement containing the following:

a. A calculation of the actual transmission-related revenue requirement reflected in existing base rates, which shall reflect the pre-tax return of and on the transmission rate base allocated to EGS Louisiana retail operations, plus the allocated portion of transmission-related operation and maintenance and other tax expense, plus the allocated MSS-2 charges or receipts. All data used to derive this transmission-related revenue requirement are to be based on the most recent test year used to make the EGS-LA FRP filings;

b. An estimated transmission-related revenue requirement, which shall be consistent with the terms and conditions of separation and shall contain the same components as set forth in Paragraph a. above and shall be based on the data for the same test year;

c. The transmission-related revenue requirement consistent with the terms of 2.b. above shall be determined for each calendar year subsequent to the separation (For example, if separation occurs on December 31, 2007, the first calendar year subsequent to that would be calendar year 2008.)

d. The difference in the transmission-related revenue requirement (based on 2.a. and 2.b.) shall be included in the initial Rider T in the first billing cycle of the second month following the filing of the report. (For example, if the report is filed May 31, 2008, the Rider T reflecting the change in the transmission-related revenue requirement would be effective in the first billing cycle of July 2008); The Rider shall be revised to reflect the difference in the transmission-related revenue requirement based on 2.a. and 2.c. annually.

e. The Rider T shall remain in effect for 50 months (except that in no year shall the credit be negative). At the end of the 50 months (or shorter period if the credit has become negative), the base rate reduction reflected in the Rider T shall cease and the savings should thereafter be reflected in the calculation of EGS-LA's annual revenue requirement; and

f. In the EGS-LA FRP filing made subsequent to a change in the Rider T, the FRP Evaluation Report shall be pro formed to reflect the transmission-related revenue requirement calculated in 2.a. above and the test year revenue shall not be reduced to reflect the Rider T credit, so long as the Rider T is in effect.

g. The differential calculated pursuant to 2.d. based on 2.a. and 2.b. shall be multiplied by a fraction, the numerator of which shall be the number of months from the effective date of the separation to the date the Rider T set forth in 2.d. takes effect and the denominator of which is 12. That amount shall be amortized over the first 12 months the Rider T is in effect and reflected in said Rider T.

10. If EGS cannot obtain reasonable assurances from the rating agencies that the JSP will not cause a downgrade such that upon jurisdictional separation EGS-LA's and EGS-TX's credit ratings would not be equal to EGS's credit ratings prior to separation, the Company will not proceed with the JSP. In addition, if the Company's credit ratings are downgraded at any time before the implementation of the JSP, the Company will not proceed with the JSP until its credit ratings improve to an acceptable level.

11. The approval of the separation plan will expire on January 1, 2009 if the separation is not actually implemented on or before December 31, 2008. However, the Commission may extend its approval by up to six months at a time upon request by the Company filed in this subdocket at least 60 days or more prior to the then-effective expiration of the Commission's approval and the Commission's determination that the separation remains in the public interest. Such a request should be accompanied by an explanation as to why the separation has not actually been implemented or will not be implemented within the period approved, a statement that there have been no material changes in the facts and circumstances relied on by the Commission for its initial approval in this proceeding, or if there have been such changes in the facts and circumstances, a statement identifying and describing each relevant change and the effect the Company believes that each such change will have on the actual separation when it is implemented. The request shall be provided to the Commission's special counsel and consultants, who shall review it and report to the Commission.

12. The Commission hereby vacates its July 31, 2001 Interim Order approving the May 21, 2001 Settlement Term Sheet, which provided a general business structure for separating EGS's Louisiana and Texas jurisdictional assets, and the September 19, 2001 approval by the Commission of the July 30, 2001 Transmission and Distribution Term Sheet.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
January 31, 2007

/S/ JACK "JAY" A. BLOSSMAN
DISTRICT I
CHAIRMAN JACK "JAY" A. BLOSSMAN

/S/ LAMBERT C. BOISSIERE, III
DISTRICT III
VICE CHAIRMAN LAMBERT C. BOISSIERE, III

/S/ C. DALE SITTIG
DISTRICT IV
COMMISSIONER C. DALE SITTIG

/S/ JAMES M. FIELD
DISTRICT II
COMMISSIONER JAMES M. FIELD

LAWRENCE C. ST. BLANC
SECRETARY

/S/ FOSTER L. CAMPBELL
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

Commissioner Field and Commissioner Campbell dissenting in part:

Commissioner Field and Commissioner Campbell vote to approve the separation, but would condition the approval on the company's agreement to accept one of the proposals advanced by the Staff for the allocation of nuclear and environmental risk for the River Bend nuclear unit. Additionally, Commissioners Field and Campbell would not commit now to have EGS-LA assume the Perryville purchase power agreement between EGS-LA. and EGS-TX when EGS-TX enters retail competition in Texas.

APPENDIX 1

SUMMARY OF GENERATION PORTION
OF EGS'S JURISDICTIONAL SEPARATION PLAN

Summary of Generation Portion of Jurisdictional Separation Plan	
Resource	**Separation Methodology**
Regulated River Bend (70%)	Owned by EGS-LA with life-of-unit PPA to EGS-TX for a share of capacity equal to EGS-TX's responsibility ratio
Cajun 30%	Owned by EGS-LA
Big Cajun 2, Unit 3 (42% undivided interest)	Co-owned by EGS-LA and EGS-TX with ownership interests in proportion to their respective responsibility ratios and with both becoming parties to the existing Joint Ownership Participation and Operating Agreement
Nelson 6 (70% undivided interest)	Co-owned by EGS-LA and EGS-TX with ownership interests in proportion to their respective responsibility ratios and with both becoming parties to the existing Joint Ownership Participation and Operating Agreement with costs billed to EGS-TX pursuant to a separate Joint Ownership Billing Process Agreement
Louisiana Station No. 2, Nelson 3 & 4, Willow Glen	Owned by EGS-LA with PPA to EGS-TX for a share of capacity equal to EGS-TX's responsibility ratio
Sabine and Lewis Creek	Owned by EGS-TX with PPA to EGS-LA for a share of capacity equal to EGS-LA's responsibility ratio
Perryville PPA	EGS-LA will be substituted for EGS and will sell EGS-TX a portion of such capacity based on their responsibility ratios
Toledo Bend PPA	EGS-LA and EGS-TX will be substituted for EGS as parties to this agreement based on their responsibility ratios

Application for Transfers of Operating License
And Material License, NPF-47

Attachment B
Draft Power Purchase Agreement

DRAFT AGREEMENT

This Agreement is dated as of January 1, 2008, between Entergy Gulf States-Texas, Inc. ("EGS-TX" or "Buyer"), and Entergy Gulf States, Inc. ("EGS-LA" or "Seller").

WHEREAS, Seller has agreed to make a unit power sale from the designated units set forth on Attachment A (individually a "Designated Unit" and collectively "Designated Units") to Buyer; and

WHEREAS, the agreement among Entergy Gulf States, Inc., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., and Entergy Arkansas, Inc., (collectively the "Companies"), and Entergy Services, Inc. ("ESI") was filed with the FERC on April 30, 1982, and became effective on January 1, 1983, amended to incorporate EGS in 1993, amended to incorporate EGS-TX in 200_ (hereinafter referred to as the "System Agreement"); and

WHEREAS, the System Agreement contains a Service Schedule MSS-4 providing the basis for making a unit power purchase and sale between the Companies that are participants in that Agreement; and

WHEREAS, the parties herein wish to execute this Agreement to provide for a unit power purchase by Buyer under Service Schedule MSS-4 from the Designated Units.

THEREFORE, the parties agree as follows:

1. Designated Units. The designated generating units for purposes of this unit power sale under Service Schedule MSS-4 of the System Agreement shall be those units set forth on Attachment A.

2. Unit Power Purchase. Seller agrees to sell and Buyer agrees to purchase that quantity of generating capacity and associated energy from the Designated Units

equivalent to the percentage (the "Allocated Percentage") of Seller's capacity in each such Designated Unit set forth on Attachment A.

3. Pricing. The pricing of the capacity and energy to be sold and purchased pursuant to paragraph 2 above shall be as specified in Service Schedule MSS-4 of the System Agreement. Should the trust funds set aside for Buyer's share of the responsibility for River Bend Station decommissioning be found to be insufficient to cover the aforesaid Buyer's share of the cost for such decommissioning, Buyer will promptly pay to Seller such deficit.

4. Energy Entitlement. Buyer is entitled to receive on an hourly basis the Allocated Percentage of the energy generated by each of the Designated Units.

5. Term. The term of this Agreement shall be the operating life of the Designated Units, plus any time required to decommission the Designated Units.

6. Termination. Neither party shall have the right to terminate the unit power purchase and sale required by this Agreement without the express written consent of the other party.

7. Assignment. This Agreement is not assignable by Buyer without the consent of Seller, and Seller must consent to any transfer or assignment to any new or restructured entity resulting from any restructuring or business combination of Buyer, the effect of which would cause a successor to become a party hereto. Any assignment approved by Seller shall be on terms as then agreed.

8. Condition Precedent. This contract shall be conditioned upon Buyer receiving all regulatory approvals required for this Agreement.

9. Notices. Unless specifically stated otherwise herein, any notice to be given hereunder shall be sent by Registered Mail, postage prepaid, to the party to be notified at the address set forth below, and shall be deemed given when so mailed.

To EGS-TX:	Entergy Gulf States-Texas, Inc. 350 Pine Street Beaumont, TX 77701 ATTN: Chief Executive Officer
To EGS-LA:	Entergy Gulf States, Inc. 4809 Jefferson Hwy Jefferson, LA 70121 ATTN: Chief Executive Officer

10. Nonwaiver: The failure of either party to insist upon or enforce, in any instance, strict performance by the other of any of the terms of this Agreement or to exercise any rights herein conferred shall not be considered as a waiver or relinquishment to any extent of its rights to assert or rely upon any such terms or rights on any future occasion.

11. Amendments. No waiver, alteration, amendment or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representation of both parties.

12. Entire Agreement. This Agreement, which is entered into in accordance with the authority of Service Schedule MSS-4 of the System Agreement, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous and collateral agreements of understandings with respect to the subject matter hereof.

13. Severability. It is agreed that if any clause or provision of this Agreement is held by the courts to be illegal or void, the validity of the remaining portions and provisions of the Agreement shall not be affected, and the rights and obligations of the

parties shall be enforced as if the Agreement did not contain such illegal or void clauses or provisions.

WITNESS OUR SIGNATURES as of December __, 2007.

ENTERGY GULF STATES-TEXAS, INC.

BY: ______________________

TITLE: ____________________

ENTERGY GULF STATES, INC.

BY: ______________________

TITLE: ____________________

ATTACHMENT A

SALE OF CAPACITY AND ENERGY

BY ENTERGY GULF STATES, INC. TO ENTERGY GULF STATES-TEXAS, INC.

This Attachment A is attached to and forms a part of the Agreement dated on January 1, 2008, between Entergy Gulf States, Inc. ("Seller") and Entergy Gulf States-Texas, Inc. ("Buyer") pursuant to the Service Schedule MSS-4 of the System Agreement.

	SELLER'S CAPACITY*	BUYER'S ALLOCATED CAPACITY*	BUYER'S ALLOCATED PERCENTAGE
DESIGNATED UNITS			
River Bend Station	689		
TOTAL	689		

* Expressed in megawatts. To the extent Seller's Capacity increases or decreases as determined by the Entergy Operating Committee from time to time, Buyer's Allocated Capacity shall adjust correspondingly based on Buyer's Allocated Percentage of Seller's Capacity.

Application for Transfers of Operating License
And Material License, NPF-47

Attachment C
Mark-up of River Bend Station Operating License

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

LOUISIANA, LLC

ENTERGY GULF STATES~~, INC~~.**

AND

ENTERGY OPERATIONS, INC.

DOCKET NO. 50-458

RIVER BEND STATION, UNIT 1

FACILITY OPERATING LICENSE

License No. NPF-47

1. The Nuclear Regulatory Commission (the Commission or the NRC) has found that:

   Louisiana, LLC

   A. The application for license filed by Gulf States Utilities Company (now renamed Entergy Gulf States~~, Inc~~.), acting on behalf of itself and Cajun Electric Power Cooperative***, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations set forth in 10 CFR Chapter I, and all required notifications to other agencies or bodies have been duly made;

   B. Construction of the River Bend Station, Unit 1 (the facility) has been substantially completed in conformity with Construction Permit No. CPPR-145 and the application, as amended, the provisions of the Act and the regulations of the Commission;

   C. The facility will operate in conformity with the application, as amended, the provisions of the Act, and the regulations of the Commission;

   D. There is reasonable assurance: (1) that the activities authorized by this operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations set forth in 10 CFR Chapter I;

   E. Entergy Operations, Inc.* (EOI) is technically qualified to engage in the activities authorized by this operating license in accordance with the Commission's regulations set forth in 10 CFR Chapter I;

Louisiana, LLC

* EOI is authorized to act as agent for Entergy Gulf States~~, Inc~~., and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

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restructured its organization.

** Entergy Gulf States, Inc., ~~merged with a wholly-owned subsidiary of Entergy Corporation.~~ Entergy Gulf States~~, Inc~~. was the ~~surviving company in the merger.~~

Louisiana, LLC resulting owner of River Bend Station.

***Entergy Gulf States, Inc. was authorized to act as agent for Cajun Electric Power Cooperative prior to the transfer of Cajun Electric Power Cooperative's 30% ownership interest in River Bend to Entergy Gulf States, Inc. Entergy Gulf States, Inc. has merged into Entergy Gulf States, Louisiana, LLC.

Louisiana, LLC

F. Entergy Gulf States, ~~Inc~~. and EOI have satisfied the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," of the Commission's regulations;

G. The issuance of this license will not be inimical to the common defense and security or to the health and safety of the public;

H. After weighing the environmental, economic, technical, and other benefits of the facility against environmental and other costs and considering available alternatives, the issuance of Facility Operating License No. NPF-47, subject to the conditions for protection of the environment set forth herein, is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied; and

I. The receipt, possession, and use of source, byproduct and special nuclear material as authorized by this license will be in accordance with the Commission's regulations in 10 CFR Parts 30, 40 and 70.

2. Based on the foregoing findings and approval by the Nuclear Regulatory Commission at a meeting on November 15, 1985, the License for Fuel Loading and Low Power Testing, License No. NPF-40, issued on August 29, 1985, is superseded by Facility Operating License NPF-47 hereby issued to EOI and Entergy Gulf States, ~~Inc.~~ (the licensees), to read as follows:

Louisiana, LLC

A. This license applies to the River Bend Station, Unit 1, a boiling water nuclear reactor and associated equipment, owned by Entergy Gulf States, ~~Inc.~~ and operated by EOI. The facility is located approximately 2 miles east of the Mississippi River in West Feliciana Parish, Louisiana, approximately 2.7 miles southeast of St. Francisville, Louisiana and approximately 18 miles northwest of the city limits of Baton Rouge, Louisiana, and is described in the "Final Safety Analysis Report, as supplemented and amended, and in the Environmental Report-Operating License Stage, as supplemented and amended.

B. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses:

Louisiana, LLC

(1) Entergy Gulf States, ~~Inc.~~ to possess the facility at the designated location in West Feliciana Parish, Louisiana, in accordance with the procedures and limitations set forth in this license;

(2) EOI, pursuant to Section 103 of the Act and 10 CFR Part 50, to possess, use and operate the facility at the above designated location in accordance with the procedures and limitations set forth in this license;

(3) EOI, pursuant to the Act and 10 CFR Part 70, to receive, possess and to use at any time special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor operation, as described in the Final Safety Analysis Report, as supplemented and amended;

(4) EOI, pursuant to the Act and 10 CFR Parts 30, 40 and 70, to receive, possess, and use at any time any byproduct, source and special nuclear material as sealed neutron sources for reactor startup, sealed sources for reactor instrumentation and radiation monitoring equipment calibration, and as fission detectors in amounts as required;

(5) EOI, pursuant to the Act and 10 CFR Parts 30, 40 and 70, to receive, possess, and use in amounts as required any byproduct, source or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and

(6) EOI, pursuant to the Act and 10 CFR Parts 30, 40 and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.

C. This license shall be deemed to contain and is subject to the conditions specified in the Commission's regulations set forth in 10 CFR Chapter 1 and is subject to all applicable provisions of the Act and to the rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:

(1) Maximum Power Level

EOI is authorized to operate the facility at reactor core power levels not in excess of 3091 megawatts thermal (100% rated power) in accordance with the conditions specified herein. The items identified in Attachment 1 to this license shall be completed as specified. Attachment 1 is hereby incorporated into this license.

(2) Technical Specifications and Environmental Protection Plan

INSERT Am #

The Technical Specifications contained in Appendix A, as revised through Amendment No. ~~151~~ and the Environmental Protection Plan contained in Appendix B, are hereby incorporated in the license. EOI shall operate the facility in accordance with the Technical Specifications and the Environmental Protection Plan.

(3) Antitrust Conditions

a. Entergy Gulf States, ~~Inc.~~ Louisiana, LLC shall comply with the antitrust conditions in Appendix C, attached hereto, which is hereby incorporated in this license.

b. EOI shall not market or broker power or energy from River Bend Station, Unit 1. Entergy Gulf States, ~~Inc.~~ Louisiana, LLC is responsible and accountable for the actions of its agent, EOI, to the extent said agent's actions affect the marketing or brokering of power or energy from River Bend Station, Unit 1 and, in any way, contravene the antitrust conditions of this paragraph or Appendix C of this license.

(4) Seismic and Dynamic Qualification of Seismic Category 1 Mechanical and Electrical Equipment (Section 3.10, SER and SSER 3)

EOI shall complete the requirements of the seismic and dynamic qualification of mechanical and electrical equipment as specified in Attachment 2. Attachment 2 is hereby incorporated into this license.

(5) Mark III Related Issues (Section 6.2.1.9, SER and SSER 2)

a. EOI shall not use the residual heat removal system in the steam condensing mode without prior written approval of the staff.

b. Prior to startup following the first refueling outage, GSU* shall furnish the outstanding information identified in Appendix K of SSER 2 addressing the Mark III containment related issues.

(6) Inservice Inspection Program (Section 5.2.4.3 and 6.6.3, SER and SSER 3)

GSU shall submit the inservice inspection program for NRC staff review and approval by September 1, 1986.

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* The original licensee authorized to possess, use and operate the facility was Gulf States Utilities Company (GSU). Amendment 88 resulted in a name change for Gulf States Utilities Company (GSU) to Entergy Gulf States, Inc. Consequently, historical references to certain obligations of GSU remain in the license conditions.

Entergy Gulf States, Inc. has now merged into Entergy Gulf States, Louisiana, LLC (conforming Amendment __)

No changes
(GSU references this page are historical.)

(7) Bypassed and Inoperable Status-Indication (Section 7.5.2.2, SER and SSER 3)

Prior to startup following the first refueling outage, GSU shall implement design modifications to improve the capabilities of existing bypassed and inoperable status indication used to monitor the status of safety related systems. The specific design changes to be implemented are identified in a GSU letter dated December 3, 1984 as clarified in a GSU letter dated March 5, 1985.

(8) DELETED

(9) Ultimate-Heat Sink (Section 9.2.5, SER and SSER 3)

Prior to startup following the first refueling outage GSU shall have installed and operational in the ultimate heat sink a permanent temperature monitoring system acceptable to the NRC staff and Technical Specification modifications as required.

(10) Fire Protection (Section 9.5.1, SER and SSER 3)

EOI shall comply with the requirements of the fire protection program as specified in Attachment 4. Attachment 4 is hereby incorporated into this license.

(11) Operating Staff Experience Requirements (Section 13.1.2.1, SSER 2)

EOI shall have a licensed senior operator on each shift, while in Operating Condition 1, 2 and 3, who has had at least six months of hot operating experience on a plant comparable to River Bend Station, including at least six weeks at power levels greater than 20% of full power, and who has had startup and shutdown experience.

(12) Post-Fuel-Loading Initial Test Program (Section 14, SER and SSER 3)

Any changes to the initial test program described in Section 14 of the FSAR made in accordance with the provisions of 10 CFR 50.59 shall be reported in accordance with 50.59(b) within one month of such change.

No changes
(ECSI references this page are historical.)

(13) Partial Feedwater Heating (Section 15.1, SER)

During power operation, the facility shall not be operated with a feedwater heating capacity which would result in a rated thermal power feedwater temperature less than 326 °F.

(14) Emergency Response Capabilities (Generic Letter 82-33, Supplement 1 to NUREG-0737, Section 7.5.2.4, SER and SSER 3, Section 18, SER, SSER 2 and SSER 3)

EOI shall complete the requirements of NUREG-0737 Supplement #1 as specified in Attachment 5. Attachment 5 is hereby incorporated into this license.

(15) Salem ATWS Events, Generic Letter 83-28 (Section 7.2.2.5, SSER 3)

EOI shall submit responses to and implement the requirements of Generic Letter 83-28 on a schedule which is consistent with that given in its letters dated August 3, 1984 and May 30, 1985.

(16) Merger Related Reports

Entergy Gulf States, Inc. shall inform the Director, NRR:

a. Sixty days prior to a transfer (excluding grants of security interests or liens) from Entergy Gulf States, Inc. to Entergy or any other entity of facilities for the production, transmission or distribution of electric energy having a depreciated book value exceeding one percent (1 %) of Entergy Gulf States, Inc.'s consolidated net utility plant, as recorded on Entergy Gulf States, Inc.'s books of account.

b. Of an award of damages in litigation initiated against Entergy Gulf States, Inc. by Cajun Electric Power Cooperative regarding River Bend within 30 days of the award.

(17) DELETED

No changes

D. The licensee shall fully implement and maintain in effect all provisions of the Commission-approved physical security, training and qualification, and safeguards contingency plans including amendments made pursuant to the provisions of the Miscellaneous Amendments and Search Requirements revisions to 10 CFR 73.55 (51 FR 27817 and 27822) and to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The combined set of plans, which contain Safeguards Information protected under 10 CFR 73.21, is entitled: "Physical Security, Safeguards Contingency and Training & Qualification Plan," submitted by letter dated May 16, 2006.

E. Except as otherwise provided in the Technical Specifications or Environmental Protection Plan, EOI shall report any violations of the requirements contained in Section 2, Items C.(1); C.(3) through (9); and C.(11) through (16) of this license in the following manner: initial notification shall be made within 24 hours to the NRC Operations Center via the Emergency Notification System with written followup within 60 days in accordance with the procedures described in 10 CFR 50.73(b), (c) and (e).

F. The licensee shall have and maintain financial protection of such type and in such amounts as the Commission shall require in accordance with Section 170 of the Atomic Energy Act of 1954, as amended, to cover public liability claims.

G. This license is effective as of the date of issuance and shall expire at midnight on August 29, 2025.

FOR THE NUCLEAR REGULATORY COMMISSION

Original signed by

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosures:
1. Attachments 1-5
2. Appendix A - Technical Specifications (NUREG-1172) NO CHANGES
3. Appendix B - Environmental Protection Plan
4. Appendix C - Antitrust Conditions

Date of Issuance: November 20, 1985

Revised: December 16, 1993

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

APPENDIX C

ANTITRUST CONDITIONS
FACILITY OPERATING LICENSE NO. NPF-47

Entergy Gulf States, Inc. is subject to the following antitrust conditions:

(1) Definitions

(1)(a) "Bulk Power" means the electric power, and any attendant energy, supplied or made available at transmission or subtransmission voltage by an entity from its generating facilities.

(1)(b) "Entity" means person, a private or public corporation, governmental agency, an association, a joint stock association, business trust, municipality, or rural electric cooperative owning, operating, or proposing to own or operate equipment facilities for the generation, transmission, or distribution of electricity primarily for sale or resale to the public. Provided, that, except for municipalities, governmental agencies, or rural electric cooperatives, "entity" is further restricted to those which are or will be public utilities under the laws of the State in which the entity transacts or will transact business or under the Federal Power Act, and are or will be providing electric service under a contract or rate schedule on file with and subject to the regulation of a State regulatory commission or the Federal Power Commission.

(1)(c) "Cost" means all operating and maintenance expenses and ownership and capital costs properly allocable to the particular transaction. "Cost" to be shared by participants under paragraph (9) shall include all costs of acquisition, construction, ownership, capital, operation, and maintenance reasonably allocable to the subject unit. Costs shall include no value for loss of revenues from sale of power at wholesale or retail by one party to a customer which another party might otherwise serve, except as otherwise authorized by any regulatory authority having jurisdiction. Costs shall include a reasonable return on Entergy Gulf States, ~~Inc.~~ Louisiana, LLC's investment.

(2) Entergy Gulf States, ~~Inc.~~ Louisiana, LLC shall interconnect with and coordinate reserves by means of the sale and purchase of emergency and/or scheduled maintenance bulk power with any entity(ies) in or within reasonable proximity to Entergy Gulf States, ~~Inc.~~'s service area in Louisiana engaging in or proposing to engage in electric bulk power supply on terms that will provide for Entergy Gulf States, ~~Inc.~~ Louisiana, LLC's costs in connection therewith and allow the other entity(ies) full access to the benefits and obligations of reserve coordination.

(3) Such emergency service and/or scheduled maintenance service to be provided by each entity shall be furnished to the fullest extent available from the supplying entity and desired by the entity in need. Entergy Gulf States, ~~Inc.~~ Louisiana, LLC and each entity(ies) shall provide to the other such emergency service and/or scheduled maintenance service if and when available from its own generation and from generation of others to the extent it can do so without impairing service to its customers including other electric systems to whom it has firm commitments.

(4) Entergy Gulf States, ~~Inc.~~ Louisiana, LLC and the other entity(ies) which is (are) party(ies) to a reserve sharing arrangement shall from time to time jointly establish the minimum reserves to be installed and/or provided as necessary to maintain in total a reserve margin sufficient to provide adequate reliability of power supply to the interconnected systems of the parties, consistent with good utility industry practice in the region. If Entergy Gulf States, ~~Inc.~~ Louisiana, LLC plans its reserve margin on a pooled basis with other regional companies, the reserves jointly established hereunder shall be on the same basis. Unless otherwise agreed upon or established by such regional practice, minimum reserves shall be calculated as a percentage of estimated peak-load responsibility.

No party to the arrangement shall be required to maintain greater reserves than the percentage of its estimated peak—load responsibility which results from the aforesaid calculation; provided that if the reserve requirements of Entergy Gulf States, Louisiana LLC ~~Inc.~~ are increased over the amount Entergy Gulf States, ~~Inc.~~ Louisiana, LLC would be required to maintain without such interconnection, then the other party(ies) shall be required to carry or provide for as its (their) reserves the full amount in kilowatts of such increase.

(5) The entities which are parties to such a reserve sharing agreement shall provide such amounts of ready reserve capacity as may be adequate to avoid the imposition of unreasonable demands on the others in meeting the normal contingencies of operating its system. However, in no circumstances shall the ready reserve requirement exceed the installed reserve requirement.

(6) Interconnections will not be limited to low voltages when higher voltages are available from Entergy Gulf States, ~~Inc.~~ Louisiana, LLC's installed facilities in the area where interconnection is desired, when the proposed arrangement is found to be technically and economically feasible. Control and telemetering facilities shall be provided as required for safe and prudent operation of the interconnected system.

(7) Interconnection and coordination agreements shall not embody any unlawful or unreasonably restrictive provisions pertaining to intersystem coordination. Good industry practice as developed in the area from time to time (if not unlawfully or unreasonably restrictive) will satisfy this provision.

Louisiana, LLC

(8) Entergy Gulf States, ~~Inc~~. will sell (when available) bulk power at its costs to or purchase (when needed) bulk power from any other entity(ies) in or within reasonable proximity to Entergy Gulf States, ~~Inc~~.'s service area in Louisiana engaging in or proposing to engage in generation of electric power at such entity(ies) cost when such transactions would serve to reduce the overall costs of new such bulk power supply, each for itself and for the other party(ies) to the transactions and would serve to coordinate the planning of new generation, transmission, and related facilities by both Entergy Gulf States, ~~Inc~~. and the other entity. This provision shall not be construed to require Entergy Gulf States, ~~Inc~~. to purchase or sell bulk power if it finds such purchase or sale infeasible or its costs in connection with such purchase or sale would exceed its benefits therefrom.

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(9) Entergy Gulf States, ~~Inc~~. and any successor in title, shall offer an opportunity to participate in River Bend Station, Unit 1 for the term of the instant license, or any extensions or renewals thereof, or such term as Entergy Gulf States, ~~Inc~~. and the participant(s) may mutually agree upon, to any entity(ies) in or within reasonable proximity to Entergy Gulf States, ~~Inc~~.'s service area in the State of Louisiana which has in writing requested participation therein prior to March 1, 1974, and which no later than March 31, 1975 has entered into an executory contract with respect to such participation, having taken all necessary action for it to lawfully do so prior to so doing, to a fair and reasonable extent and on reasonable terms and conditions and on a basis that fully compensate Entergy Gulf States, ~~Inc~~. for its costs incurred and to be incurred and that will not adversely affect the financing and constructing of this nuclear unit. Entergy Gulf States, ~~Inc~~. shall similarly offer an opportunity to participate in any additional nuclear generating unit(s) the power from which is intended for use in Entergy Gulf States, ~~Inc~~.'s general system operations, which Entergy Gulf States, Inc. may construct, own, and operate in Louisiana during the terms of the instant license(s), or any extension(s) or renewal(s), thereof.

Louisiana, LLC

Participation shall be either by ownership of or purchase of unit participation power from the respective nuclear units. Participation in any form shall be on an equitable basis whereby the participants, in proportion to their interests, share fully in all costs and risks of the respective nuclear units. In connection with such participation, Entergy Gulf States, ~~Inc~~. will offer transmission service as may be required for delivery of such power to such participants(s) on a basis that will fully compensate Entergy Gulf States, ~~Inc~~. for its costs.

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(10) Entergy Gulf States, ~~Inc~~. shall facilitate the exchange of bulk power by transmission over its transmission facilities between two or more entities engaging in bulk power supply in its service area in Louisiana with which it is interconnected; and between any such entity(ies) and any entity(ies) engaging in bulk power supply outside Entergy Gulf States, ~~Inc~~.'s service area in Louisiana between whose facilities Entergy Gulf States, ~~Inc~~.'s transmission lines and other transmission lines would form

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a continuous electrical path; provided that (i) permission to utilize such other transmission lines has been obtained by the entities involved; (ii) Entergy Gulf States, ~~Inc.~~ has appropriate agreements for transmission service with the entities interconnected with Entergy Gulf States, ~~Inc.~~ at both the receiving and delivery points on Entergy Gulf States, ~~Inc.~~'s system; and (iii) the arrangements reasonably can be accommodated from a functional and technical standpoint. Such transmission shall be on terms that fully compensate Entergy Gulf States, ~~Inc.~~ for its cost. Any entity(ies) requesting such transmission arrangements shall give reasonable advance notice of its (their) schedule and requirements. (The foregoing applies to any entity(ies) engaging in bulk power supply to which Entergy Gulf States, ~~Inc.~~ may be interconnected in the future as well as those to which it is now interconnected.)

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(11) Entergy Gulf States, ~~Inc.~~ shall include in its planning and construction program sufficient transmission capacity as required for the transactions referred to in paragraph (10); provided, that any entity(ies) in its service area in Louisiana gives Entergy Gulf ~~States, Inc.~~ sufficient advance notice as may be necessary to accommodate its (their) requirements from a functional and technical standpoint and that such entity(ies) fully compensate Entergy Gulf ~~States, Inc.~~ for its cost. Entergy Gulf States, ~~Inc.~~ shall not be required to construct transmission facilities which will be of no demonstrable present or future benefit to Entergy Gulf States, ~~Inc.~~

Louisiana, LLC

Louisiana, LLC Louisiana, LLC

(12) Entergy Gulf States, ~~Inc.~~ will sell power (when available) for resale to any entity(ies) in its service area in Louisiana now engaging in or proposing in good faith to engage in retail distribution of electric power, whenever power to meet the needs of such entity(ies) is not available form alternate sources at competitive costs.

(13) The foregoing conditions shall be in all respects implemented on reasonable terms and conditions in a manner consistent with the provisions of the Federal Power Act and other applicable Federal and State laws and regulatory orders, and shall be subject to force majeure, applicable curtailment programs, and engineering and technical feasibility for Entergy Gulf States, ~~Inc.~~'s system. None of the foregoing conditions shall require Entergy Gulf States, ~~Inc.~~ to sell power, perform any service, or engage in any course of action on a basis which would be unlawfully preferential or discriminatory under any applicable law or that would impair Entergy Gulf States, ~~Inc.~~'s ability to render adequate and reliable service to its own customers. All rates, charges or practices in connection therewith are to be subject to the approval of regulatory agencies having jurisdiction over them.

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