



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

October 14, 2009

Vice President, Operations
Entergy Operations, Inc.
River Bend Station
5485 US Highway 61N
St. Francisville, LA 70775

SUBJECT: ENTERGY GULF STATES LOUISIANA, LLC'S STATUS OF
DECOMMISSIONING FUNDING ASSURANCE FOR RIVER BEND STATION,
UNIT 1 (70% REGULATED) – REQUEST FOR ADDITIONAL INFORMATION
(TAC NO. ME0562)

Dear Sir or Madam:

On March 30, 2009, the Nuclear Regulatory Commission (NRC) received Entergy Gulf States Louisiana, LLC's (EGSL) biennial decommissioning funding report (Agencywide Documents Access and Management System (ADAMS) Accession No. ML090920218) for River Bend Station, Unit 1 (RBS). The NRC staff reviewed and analyzed the licensee's decommissioning cost estimate derived from the regulatory formula and the amount(s) stated within the licensee's decommissioning trust fund, as of December 31, 2008, for the above plant, as well as authorized future collections and earnings assumptions.

The NRC staff determined, based on Title 10 of the *Code of Federal Regulations* (10 CFR) 50.75(c), that the minimum amount of decommissioning funding assurance required as of December 31, 2008, is \$390,439,707 for RBS. On June 29, 2009, the NRC staff held a conference call with Entergy Operations, Inc. (the licensee), to discuss the decommissioning trust fund and its potential shortfall. During this call, the licensee agreed to submit its plan on or before August 13, 2009, in accordance with the provisions of 10 CFR 50.4. The licensee agreed that its plan would contain sufficient detailed numerical information to permit the NRC staff to evaluate its plan. By letter dated August 13, 2009 (ADAMS Accession No. ML092260590), the licensee provided the requested plan.

The NRC staff reviewed the August 13, 2009, letter describing EGSL's proposed plan to cover the shortfall in the amount of decommissioning funding assurance for its 70 percent regulated share of RBS. Based on your Biennial Decommissioning Funding Report, submitted on or about March 31, 2009, the NRC staff projected a shortfall of approximately \$164 million as of December 31, 2008. The NRC has determined that additional information is needed to complete its review of the plan.

Attached is a request for additional information (RAI). Please provide your response within 30 days of the date of this letter.

Paperwork Reduction Act Statement

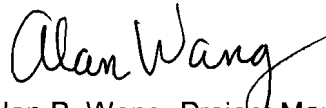
This letter does not contain any new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing collection requirements under 10 CFR Part 50 were approved by the Office of Management and Budget, control number 3150-0011, which expires June 30, 2010.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, an information collection unless the requesting document displays a currently valid OMB control number.

If you have any questions regarding this RAI, please contact me at (301) 415-1445 or at Alan.Wang@nrc.gov.

Sincerely,

A handwritten signature in black ink that reads "Alan Wang". The signature is fluid and cursive, with the first name "Alan" and last name "Wang" clearly distinguishable.

Alan B. Wang, Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-458

Enclosure:
As stated

cc w/encl: Distribution via Listserv

REQUEST FOR ADDITIONAL INFORMATION
BY THE OFFICE OF NUCLEAR REACTOR REGULATION
DECOMMISSIONING FINANCIAL ASSURANCE PLANS
2009 BIENNIAL DECOMMISSIONING REVIEW
RIVER BEND STATION (70 PERCENT REGULATED), UNIT 1
DOCKET NO. 50-458

The Nuclear Regulatory Commission (NRC) staff reviewed the Entergy Operations, Inc. (the licensee) submittal, dated August 13, 2009, describing Entergy Gulf States Louisiana, LLC's (EGSL) proposed plan to cover the shortfall in the amount of decommissioning funding assurance for its 70 percent regulated share of River Bend Station, Unit 1 (RBS). Based on your Biennial Decommissioning Funding Report, submitted on or about March 31, 2009, the NRC staff projected a shortfall of approximately \$164 million as of December 31, 2008.

In its August 13, 2009, submittal, EGSL stated that it expects the retail costs of the RBS 70 percent share to be included in the rates paid by its retail customers. Those rates are established by the Louisiana Public Service Commission (LPSC) and by the Public Utility Commission of Texas (PUCT). EGSL stated that it would seek rate relief from the LPSC for the Louisiana-jurisdictional share of River Bend.

However, in Texas, as a result of merger by division, a newly created Texas-jurisdictional entity, Entergy Texas, Inc. (ETI), now receives the former Texas-jurisdictional share of RBS output. A power purchase agreement between EGSL and ETI defines the terms of ETI's obligations. EGSL stated that ETI retains the obligation for the former Texas-jurisdictional share of RBS's decommissioning obligation. EGSL stated that ETI plans to request funding from the PUCT to eliminate the shortfall in a rate filing by the end of December 2009.

Question 1

EGSL stated that that ETI retains the obligation for the former Texas-jurisdictional share of RBS's decommissioning obligation.

However, ETI is not an NRC licensee. It is well settled that the licensee, EGSL in this case, retains the obligation to decommission its facility despite contractual arrangements with a third party. The importance of the distinction is that the licensee remains obligated to perform and pay for decommissioning in the event that the third party does not provide funds as contracted.

In view of the above, please revise the August 13, 2009, plan to state that EGSL retains the obligation to decommission its share of the RBS site.

Enclosure

Question 2

On August 13, 2009, Entergy submitted a plan on behalf of EGSL as the 100 percent licensed owner (of the 70 percent regulated segment), as part of the concurrent 2009 Biennial Decommissioning Review process, which describes how and when it intends to make adjustments to financial assurance mechanisms such that any shortfalls in decommissioning funding assurance for RBS are covered.

On page 3 of the decommissioning funding plan submitted by Entergy, the licensee stated:

It is ETI's plan to request an amount of additional annual funding from the PUCT that will eliminate the funding shortfall in the aforementioned [end of December 2009] rate filing.

The regulations in paragraph (b)(3) of Section 50.75, "Reporting and recordkeeping for decommissioning planning," of Title 10 of the *Code of Federal Regulations* (10 CFR) state:

The amount [of decommissioning financial assurance] must be covered by one or more of the methods described in paragraph (e) of this section as acceptable to the NRC.

Paragraph (e) of 10 CFR 50.75 lists six acceptable methods of providing financial assurance. A plan by a licensee's customer to request additional funding from a State Public Utilities Commission is not listed. Although your plan does not explicitly state the relationship, ETI appears to be EGSL's customer. If that is the case, it follows that, as stated, EGSL's plan to eliminate the shortfall does not conform to § 50.75(b)(3).

The NRC staff recognizes that the power purchase agreement between ETI and EGSL, combined with the existing trust fund, may qualify as acceptable under § 50.75(e)(1)(v) or (vi). However, EGSL would have to provide additional information sufficient for the NRC staff to evaluate the acceptability of the proposed method(s).

In view of the above, please revise your plan to:

- a) clarify the relationship between EGSL and ETI, and
- b) provide a financial assurance method from EGSL that uses one or more of the methods listed in § 50.75(e), supplemented, if necessary, with additional information to demonstrate that the method complies with the requirements of § 50.75(e).

Paperwork Reduction Act Statement

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Sincerely,

/RA/

Alan B. Wang, Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-458

Enclosure:
As stated

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