



Nuclear Regulatory Commission  
Exhibit # - AES000063-MA-BD01  
Docket # - 07007015  
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Exh. AES000063

AES RESPONSES TO THIRD SUPPLEMENTAL PUBLIC SAFETY QUESTION

The Licensing Board noted that all of the safety questions could be answered by both the Nuclear Regulatory Commission (“NRC”) Staff and AES, although the Licensing Board explained that at least one party must respond to each question. AES and the NRC Staff have conferred regarding which party is best positioned to respond to the Licensing Board’s questions. Based on those discussions, AES is providing a response to Question A. Both AES and the NRC Staff are providing responses Question C. Below, AES repeats each question, identifies the person providing a response to the question, and responds to the question.

**ASLB Question A:**

**In this instance, the staff seeks to ensure that funding will be available to cover facility decommissioning costs by mandating that AES’s LOC issuer be federally regulated or state regulated, rather than meeting specific capitalization or credit rating requirements. If AES and another entity were contemplating entering into a transaction involving costs on the order of those involved in the decommissioning of the EREF and AES wanted to ensure that other entity could cover those costs by procuring an LOC, would the fact that the LOC issuer is regulated by relevant federal or state agencies be sufficient in the opinion of relevant AES financial decisionmakers to provide the necessary assurance to AES regarding the LOC issuer’s ability to satisfy its obligations under the LOC? If so, please explain why. If not, what other assurances would AES seek?**

**Response to Question A (Palayer):<sup>1</sup>**

AES does not contemplate entering into such a transaction with another entity for the purposes of providing decommissioning funding assurance. AES will meet its obligation to ensure that sufficient funding will be available to cover the costs of decommissioning in accordance with established and tested funding arrangements.

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<sup>1</sup> See Exhibits AES000033 (Palayer Affidavit) and AES000035 (Palayer Professional Qualifications).

As stated in SAR Section 10.2 (Exhibit AES000037), AES intends to utilize a Letter of Credit to provide reasonable assurance of decommissioning funding as required by 10 C.F.R. §§ 40.36(e)(2) and 70.25(f)(2). The Letter of Credit method to be utilized by AES will ensure that decommissioning costs will be paid even in the event that AES is unable to meet its decommissioning obligations at the time of decommissioning. The Letter of Credit method will be structured and adopted consistent with applicable NRC regulatory requirements and in accordance with NRC regulatory guidance contained in NUREG-1757 (Exhibit NRC000096). This method of providing financial assurance is also consistent with the NRC-approved financial instrument used for the existing AREVA fuel fabrication facilities in Richland and Lynchburg.

**ASLB Question C:**

**Notwithstanding the staff's indication that it considers an LOC issued by an entity that is regulated by a federal or state agency to be adequate without any inquiry into the LOC issuer's specific capitalization or credit rating, are there any other requirements that will be placed on a LOC issuer by either AES or the staff to ensure the LOC issuer ultimately can pay AES's decommissioning and depleted uranium disposition costs?**

**Response to Question C (Palayer):**

AES does not intend to place additional requirements on the issuer of the Letter of Credit.