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CNRO-2011-00005

July 5, 2011

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

SUBJECT: Response to Request for Additional Information
2011 Decommissioning Fund Status Report
Entergy Operations, Inc.
Arkansas Nuclear One, Units 1 & 2
Docket Nos. 50-313 & 50-368
Grand Gulf Nuclear Station
Docket No. 50-416
River Bend Station Unit 1
Docket No. 50-458
Waterford 3 Steam Electric Station
Docket No. 50-382

- REFERENCES:
1. Entergy letter CNRO-2011-00001, "Status of Decommissioning Funding for Plants Operated by Entergy Operations, Inc. for the Year Ending December 31, 2010," dated March 30, 2011 (ML110940138).
 2. NRC email dated June 2, 2011, Request for Additional Information by the Office of Nuclear Reactor Regulation, 2011 Decommissioning Fund Status Report (ML111540089).

Dear Sir or Madam:

Entergy Operations, Inc. (Entergy) submitted the biennial report of decommissioning funding status for plants operated by Entergy in Reference 1. The Entergy response to the Reference 2 Request for Additional Information is provided in the attachment to this letter.

This letter contains no new commitments. If you have any questions, please contact Mr. Bryan Ford at 601-368-5516.

Sincerely,

JFM / LAE

Attachment: Response to Request for Additional Information for Entergy Operations, Inc.
cc: See next page

ADDI
NRR

cc: Regional Administrator, RIV
NRC Project Manager, ANO, WF3
NRC Project Manager, GGNS, RBS
NRC Senior Resident Inspector, ANO
NRC Senior Resident Inspector, GGNS
NRC Senior Resident Inspector, RBS
NRC Senior Resident Inspector, WF3

Mr. Jeffrey P. Meyers
Louisiana Department of Environmental Quality
Office of Environmental Compliance
Attn. OEC - ERSD
P. O. Box 4312
Baton Rouge, LA 70821-4312

Mr. J. T. Henderson (ENT)
Mr. J. A. Kowalewski (WF3)
Mr. E. W. Olson (RBS)
Mr. M. Perito (GGNS)
Mr. C. J. Schwarz (ANO)
Mr. L. Jager Smith, P.E.

ATTACHMENT 1

RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION
RE: 2011 DECOMMISSIONING FUNDING STATUS REPORT
FOR ENTERGY OPERATIONS, INC.

RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION

RE: 2011 DECOMMISSIONING FUNDING STATUS REPORT

FOR ENTERGY OPERATIONS, INC.

By letter dated March 31, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML110940137), Entergy Operations, Inc. (Entergy) submitted the 2011 Decommissioning Funding Status (DFS) Report for Arkansas Nuclear One, Units 1 & 2 (ANO-1 and ANO-2), Grand Gulf Nuclear Station (GGNS), River Bend Station (RBS), and Waterford 3 Steam Electric Station (W-3), as required under Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.75(f)(1).

The Nuclear Regulatory Commission staff, in reviewing the submittal, had the following questions transmitted by communication dated June 2, 2011, ADAMS Accession No. ML111540107 (package ADAMS Accession No. ML111540097):

RAI 1: Amounts Accumulated by Jurisdiction for the River Bend Station:

Provide the balance of each of the trust funds maintained for the Louisiana, Texas and FERC jurisdictions through December 31, 2010, for each of these funds.

On March 31, 2011, Entergy did not report the amount of decommissioning funds accumulated for each jurisdiction.

The provisions of 10 CFR 50.75(f)(1) and (2) require the licensee to report the amount of funds accumulated to the end of the calendar year preceding the report.

Response:

Entergy assumes this request is directed to the 70 percent regulated share of RBS. There is a separate trust holding decommissioning funding for the 30 percent non-regulated share of RBS and the balance of this trust was reported separately. There are not separate trust funds for the individual jurisdictions responsible for decommissioning of the 70 percent regulated share of RBS. Balances in the Nuclear Decommissioning Trust for the 70 percent regulated share of RBS attributable to the separate jurisdictions are accounted for by the Trustee, the Bank of New York Mellon. The following Table 1 provides the balances in the 70 percent regulated share trust attributable to each of the relevant jurisdictions as of December 31, 2010.

Table 1

<u>Date</u>	<u>Louisiana</u>	<u>Texas</u>	<u>FERC</u>	<u>Total</u>
12/31/2010	\$55,383,058	\$112,939,200	\$5,857,736	\$174,179,994

RAI 2: Authority Over Decommissioning Trust Funds Regarding the River Bend Station:

Explain the extent to which River Bend may make transfers between the trust funds maintained for each jurisdiction, including the non-regulated portion. Explain whether River Bend may transfer excess funds from a trust maintained for one jurisdiction to make up a shortfall in another jurisdiction, including the non-regulated portion. Include citations to the relevant regulatory authority.

Attachments 3-B and 3-C of the March 31, 2011, submittal provide summary level information of the jurisdictional, regulated and non-regulated portions of the decommissioning trust funds for River Bend station.

Pursuant to 10 CFR 50.75(b)(2), the NRC reserves the right to review the accumulation of decommissioning funds.

Response:

As discussed previously, there is one trust holding decommissioning funding for the 30 percent non-regulated share of RBS and there is a single separate trust fund for the individual jurisdictions responsible for decommissioning of the 70 percent regulated share of RBS. Transfers between the regulated and non-regulated trusts are not envisioned.

After diligent review of past orders and applicable rules of the Public Utility Commission of Texas and the Louisiana Public Service Commission, Entergy has been unable to locate any relevant regulatory authority from either of those regulators that speaks to the question presented.

RAI 3: Annual Amounts Deposited for the River Bend and Waterford 3 Steam Electric Stations:

Provide the annual amount deposited in your trust fund for decommissioning, as defined in 10 CFR 50.2, starting in 1999 for River Bend Station, Unit 1 (regulated and non-regulated portions) and Waterford 3 Steam Electric Station.

In the March 31, 2011, submission, Entergy included the public service commission orders from the Texas and Louisiana jurisdictions related to collections to the decommissioning trust fund for River Bend from 2010 forward.

Pursuant to 10 CFR 50.75(b)(2), the NRC reserves the right to review the accumulation of decommissioning funds.

Response:

The following Table 2 presents the amounts accumulated in the decommissioning trust funds for RBS and W-3 as of the last day of the indicated years.

Table 2

<u>Date</u>	<u>W-3</u>	<u>RBS (70%)</u>	<u>RBS (30%)</u>
12/31/99	\$101,116,823	\$83,603,561	\$158,135,865
12/31/00	\$111,197,815	\$90,309,317	\$156,703,763
12/31/01	\$119,203,666	\$94,659,835	\$150,377,897
12/31/02	\$123,471,825	\$95,802,617	\$142,695,947
12/31/03	\$153,151,807	\$112,691,254	\$162,451,854
12/31/04	\$176,042,107	\$124,097,773	\$173,248,315
12/31/05	\$187,100,778	\$131,845,087	\$178,618,736
12/31/06	\$208,320,826	\$148,723,824	\$195,872,785
12/31/07	\$221,971,087	\$160,842,390	\$204,905,102
12/31/08	\$180,861,692	\$133,089,209	\$169,773,781
12/31/09	\$209,070,174	\$153,528,171	\$195,998,534
12/31/10	\$240,039,768	\$174,179,994	\$217,979,982

The following Table 3 presents the amounts deposited into the decommissioning trust funds for the RBS 70 percent regulated share, the RBS 30 percent non-regulated share, and W-3.

Table 3

<u>Year</u>	<u>RBS Regulated</u>	<u>RBS Non- regulated</u>	<u>RBS Total</u>	<u>W-3</u>
1999	\$5,235,036	\$0	\$5,235,036	\$8,786,000
2000	\$6,272,862	\$0	\$6,272,862	\$10,422,000
2001	\$6,246,914	\$0	\$6,246,914	\$10,422,000
2002	\$6,314,914	\$0	\$6,314,914	\$10,422,000
2003	\$3,777,914	\$0	\$3,777,914	\$10,422,000
2004	\$3,777,914	\$0	\$3,777,914	\$10,422,000
2005	\$3,777,914	\$0	\$3,777,914	\$4,317,000
2006	\$3,777,914	\$0	\$3,777,914	\$2,522,687
2007	\$3,777,914	\$0	\$3,777,914	\$2,419,534
2008	\$3,777,914	\$0	\$3,777,914	\$2,419,534
2009	\$723,748	\$0	\$723,748	\$2,419,534
2010	\$3,484,375	\$0	\$3,484,375	\$3,819,110

RAI 4: Citation for Real Rate of Returns for the Grand Gulf Nuclear Station:

Provide the citation (e.g., an Order by the rate-regulatory authority) by the regulatory entity that allows for the assumptions used regarding rates of escalation in decommissioning costs, rate of earnings on decommissioning funds and rates of other factors assumed in your DFS report.

On March 31, 2011, South Mississippi Electric Power Association reported the following:

3% rate of escalation in decommissioning costs, and
9% rate of earnings on decommissioning funds.

As stated in 10 CFR 50.75(f)(1), the information in [the DFS] report must include the assumptions used regarding rates of escalation in decommissioning costs, rates of earnings on decommissioning funds, and rates of other factors used in funding projections.

Response:

SMEPA is an electric power cooperative that establishes its own rates and assumptions regarding needs for decommissioning. The rates provided in Reference 1 were those provided by SMEPA. Article I Section III of SMEPA's Bylaws provides as follows:

Section 3. Purchase of Electric Energy Each Member shall, as soon as electric energy shall be available, purchase from the Association all electric energy used by such Member and shall pay therefor monthly at rates which shall from time to time be fixed by resolution of the Board of Directors; provided, however, that the electric energy which the Association shall furnish to any Member may be limited to such an amount as the Board of Directors shall from time to time determine, and that each Member shall pay to the Association such minimum amount per month as shall be fixed by the Board of Directors, from time to time, regardless of the amount of electric energy consumed; provided, further, that the Board of Directors may waive the requirement for the purchase of all power by a Member when full compliance would cause undue hardship prior to termination or expiration of existing power supply contracts. Each Member shall also pay all obligations which may from time to time become due and payable by such Member to the Association as and when the same shall become due and payable.

By resolution dated December 17, 2008, SMEPA's Board of Directors authorized the assumed 9 percent earnings rate for the decommissioning funds. SMEPA assumes a 3 percent inflation factor for decommissioning costs.

RAI 5: After-Tax Amounts of funds Accumulated for Arkansas Nuclear One, Units 1 & 2, Grand Gulf Nuclear Station, River Bend Station, Unit 1 and Waterford 3 Steam Electric Station:

Provide the after-tax amounts of funds accumulated through December 31, 2010, for Arkansas Nuclear One, Units 1 & 2, Grand Gulf Nuclear Station, River Bend Station, Unit 1 and Waterford 3 Steam Electric Station.

On March 31, 2011, Entergy did not state if the amounts of decommissioning funds accumulated were after-tax amounts.

The provisions of 10 CFR 50.75(f)(1) and (2) require the licensee to report the amount of funds accumulated to the end of the calendar year preceding the report.

Response:

Entergy's March 31, 2011 report of the trust fund amounts [Reference 1] complied with the reporting requirements of 10 CFR §50.75(f)(1) in that it reported the market value of the decommissioning trust funds as of December 31, 2010. The trust fund amounts reported in its March 31, 2011 submission were the trust amounts as of December 31, 2010 net of any material current income tax liability on *realized* gains, interest, dividends and other income of the trusts as discussed below.

RAI 5 does not define the meaning of "after-tax amounts." To be complete, Entergy will answer RAI 5 in two ways. The first will assume consistent with the current reporting requirements that "after tax amounts" means trust balances less current taxes due and not paid as of December 31, 2010 on net *realized* gains, interest, dividends and other net taxable income of the decommissioning trusts for ANO-1, ANO-2, GGNS, RBS and W-3. The second will assume that "after-tax amounts" means a current estimate of the funds that would have been available, net of taxes that would have been due, if all of the decommissioning trust assets had been liquidated on December 31, 2010, using tax rates that were in effect as of December 31, 2010.

Entergy provides the following, additional detail on the above-listed decommissioning trusts based on the assumption that the term "after tax amounts" means trust balances less taxes due on realized gains:

SMEPA Share of GGNS

SMEPA is a not-for-profit electric cooperative, and is exempt from federal income tax. Accordingly, the amounts reported as of December 31, 2010 of funds separately accumulated by SMEPA for GGNS decommissioning were after-tax amounts.

ANO-1, ANO-2, Entergy's share of GGNS, RBS, and W-3

ANO-1, ANO-2, Entergy's share of GGNS, RBS, and W-3 are each beneficiaries of decommissioning trusts that hold assets in accounts (Funds) that are designated as either tax-qualified Funds (QFs) or non tax-qualified Funds (NQFs). The segregation is necessary to comply with tax laws that provide for a favorable tax regime for QFs.

At December 31, 2010, the separate decommissioning trusts for ANO-1, ANO-2, the 70 percent regulated share of RBS, W-3 and Entergy's share of GGNS each held assets in QFs. Each QF is treated as a separate corporate taxpayer that must file its own annual tax return on Form 1120-ND and pay its own income taxes. Each QF must make periodic installment payments of estimated income taxes during the year and pay any unpaid income tax for the previous year by March 15 of the following year.

At December 31, 2010, the decommissioning trusts for ANO-1, ANO-2, W-3 and Entergy's share of GGNS held no assets in a NQF. On that date, however, the RBS decommissioning trust for the 70 percent regulated share of RBS did hold assets in a NQF (the RBS NQF). The RBS NQF is treated as a "Grantor" trust for income tax purposes. Consequently, the assets and the realized earnings of the RBS NQF are regarded as owned directly by the

owner of the plant, who is considered to be the Grantor. The Grantor is responsible both for including the realized earnings of the RBS NQF in its taxable income and for the payment of income taxes imposed thereon. Accordingly, the amount reported for the portion of the 70 percent regulated share of RBS in the RBS NQF was reported after-tax.

The separate decommissioning trust for the 30 percent non-regulated share of RBS is treated as neither a QF nor a NQF. Rather, this trust is treated as a complex trust that is a separate taxpayer that files its own annual income tax return (Form 1041) and pays its own tax at normal trust rates. This trust paid the balance of its tax liability for 2010 of \$54,839 in early 2011. In view of the immaterial impact of the payment on the amounts reported previously, the portion of the reported amount of funds accumulated in the separate decommissioning trust for the 30 percent non-regulated share of RBS as of December 31, 2010 was net of material taxes on realized gains.

The QFs for the specified plants made timely periodic tax payments in 2010, with the last payment being remitted to the Internal Revenue Service on or about December 15, 2010. In March 2011, the QFs for the specified plants remitted the following payments with respect to the balance of their 2010 tax liabilities:

ANO-1	\$ 0
ANO-2	\$19,000
GGNS (Entergy Share)	\$ 0
RBS (70%)	\$80,000
W-3	\$91,000

Entergy does not deem the foregoing true-up payments by the QFs and the separate decommissioning trust for the 30 percent regulated share of RBS to be material when considering the available financial assurance. The March 2011 true-up tax payments all appear to be within the rounding margin described in Section 4.2.5 of LIC-205 Rev. 4, even after application of escalation, and therefore would not affect the NRC's analysis of available financial assurance even if they were to be considered when computing the "amount accumulated to the end of the calendar year" as described in 10 CFR §50.75(f)(1).

Entergy provides the following, additional detail on the above-listed decommissioning trusts based on the assumption that the term "after tax amounts" means trust balances less taxes due if all trust positions were liquidated on December 31, 2010:

Table 4 below shows the decommissioning trust fund balances as reported in the March 31, 2011 report and a current estimate of the funds that would have been available, net of taxes that would have been due (i.e. liquidation value), if all of the decommissioning trust assets had been liquidated on December 31, 2010, using tax rates that were in effect as of December 31, 2010. (The decommissioning trusts were not liquidated as of December 31, 2010.)

Table 4

Reactor	Decommissioning Trust Fund Balances as of 12/31/2010 (\$Millions)	Liquidation Values as of 12/31/2010 (\$Millions)
ANO-1	294.8	286.0
ANO-2	226.0	218.2
GGNS (Entergy)	386.2	379.4
GGNS (SMEPA)	39.4	39.4
River Bend (70%)	174.2	168.4
River Bend (30%)	218.0	214.4
W-3	240.0	233.0