



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

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION  
SUPPORTING AMENDMENT NO. 9 TO CONSTRUCTION PERMIT NO. CPPR-119  
SYSTEM ENERGY RESOURCES, INC.  
GRAND GULF NUCLEAR STATION, UNIT 2  
DOCKET NO. 50-417

1.0 INTRODUCTION

By letter dated August 21, 1989, as supplemented by letters dated September 27 and November 21, 1989, System Energy Resources, Inc., requested an amendment to Construction Permit No. CPPR-119 for the Grand Gulf Nuclear Station, Unit 2 (GGNS-2).

Entergy Corporation, formerly known as Middle South Utilities, Inc., is establishing a new company, Entergy Operations, Inc. (EOI), as a system-wide nuclear operating company. Separate amendments to the operating licenses for Grand Gulf Nuclear Station, Unit 1; Waterford Steam Electric Station, Unit 3; and Arkansas Nuclear One, Units 1 and 2, implement the authorization to transfer control and performance of licensed activities for these facilities to EOI. This amendment to the Construction Permit for Grand Gulf Nuclear Station, Unit 2, would complete the consolidation of Entergy Corporation nuclear activities under EOI by implementing the authorization to transfer control and performance of licensed activities for GGNS-2 from System Energy Resources, Inc. (SERI), to EOI. SERI would remain 90% owner and lease holder of GGNS-2 and South Mississippi Electric Power Association (SMEPA) would continue as owner of the remaining 10%. SFP&L and SMEPA have designated EOI as their agent in licensing matters. Mississippi Power & Light Company (MP&L) would remain on the construction permit subject to the completion of an antitrust review which will address whether MP&L should be removed from the permit as requested by a previous application dated September 2, 1986. The SERI organization involved with nuclear power activities would transfer substantially intact to EOI and the same staff currently responsible for GGNS-2 would continue those responsibilities as part of EOI.

2.0 EVALUATION

The staff's review of the application addresses those issues necessary for both the issuance of the construction permit amendment pursuant to 10 CFR 50.90 and for approval of transfer of control of licensed activities pursuant to 10 CFR 50.80.

### Technical Qualifications

The technical qualifications of EOI to carry out its responsibilities under the construction permit for GGNS-2, as amended, will meet or exceed the present technical qualifications of SERI. SERI will continue to act as the constructor of GGNS-2 pending issuance of the proposed amendment of the construction permit. When the amendment becomes effective, EOI would assume responsibility for, and control over, the physical construction and any necessary maintenance or support of GGNS-2.

In the proposed EOI organization, the nuclear organization for the construction of GGNS-2 will remain the same with the only change being that the senior nuclear officer of SERI (Vice-President, Engineering and Support) will report directly to the Executive Vice President and Chief Operating Officer of EOI. Therefore, the technical support for the construction of GGNS-2 will be transferred essentially intact to EOI. We find this proposed change acceptable as it meets the appropriate acceptance criteria of Section 13.1 of NUREG-0800, the NRC Standard Review Plan.

### Financial Considerations

The ownership of the facility and all rights to electric power from the facility will remain with SERI and SMEPA. In addition, as stated in SERI's submittal dated August 21, 1989, "The contractual agreement between System Energy and SMEPA, as co-owners, regarding the allocation of all costs for the design, construction, and related fuel cycle of Grand Gulf Unit 2 will not be altered by the issuance of the requested amendment to the Grand Gulf Unit 2 construction permit." In view of these arrangements, the staff concludes that the current owners' responsibility for and ability to construct GGNS-2 remains unchanged from the previous construction permit financial qualifications review and that, therefore, further review of the estimate of construction costs and source for construction funds as provided under 10 CFR Part 50, Appendix C. 11 is not needed. Furthermore, SERI and EOI have met the requirements of 10 CFR 50.33 (f)(3) that newly-formed entities provide information showing "(i) The legal and financial relationships it has or proposes to have with its stockholders or owners; (ii) Its financial ability to meet any contractual obligation to the entity which they have incurred or proposed to incur; and (iii) Any other information considered necessary by the Commission to enable it to determine the applicant's financial qualifications."

The staff notes, however, that Article V, Section 5.1 of the proposed Operating Agreement between SERI and EOI, as transmitted by letter dated September 27, 1989, suggests that SERI, assuming GGNS-2 commences operation, may not agree to pay for operation and capital improvement costs that exceed either: (1) the annual budget for the facility to which SERI and EOI are to agree by November of the year prior to the budget year, or (2) the maximum amounts to be paid within the parameters of the then-current EOI five-year business plan. Notwithstanding, this Article XI, Section 11.5, provides that neither EOI or SERI are permitted to delay or withhold payment due and owing under the Proposed Operating

Agreement except that SERI shall have the right to make any contested payments under protest. The staff understands the provisions contained in Section 5.1 and 11.5 of that proposed Operating Agreement taken together do not contradict SERI's and SMEPA's commitment to pay for all costs of construction of GGNS-2. The staff further expects that any changes to the proposed Operating Agreement between EOI and SERI will continue with these same understandings.

The staff believes that there will be no financial consequences adversely affecting safety from allowing EOI to assume exclusive responsibility for making safety decisions. The economic benefits which the licensee anticipates from EOI's construction of GGNS-2 are not expected to be gained at the expense of public health and safety given SERI's continuing commitment to pay the costs, including safety-related costs, of GGNS-2. Thus, the staff concludes that the financial consequences of the proposed action will not adversely affect protection of public health and safety.

#### Antitrust Considerations

The license amendment request transferring the operation of Grand Gulf Unit 1 and the construction of Grand Gulf Unit 2 from SERI to EOI is subject to antitrust review pursuant to Section 105c of the Atomic Energy Act, as amended. Notification of receipt and a request for comments on antitrust issues pursuant to this amendment, as well as requests for similar transfers involving the Waterford 3 and ANO Unit 2 nuclear units, were published in the Federal Register on November 1, 1985 (FR Vol. 54, 46168). Comments were received from a group of wholesale electric customers (Wholesale Customers) of the Arkansas Power & Light Company.

Pursuant to a license amendment request dated September 2, 1986, Mississippi Power & Light Company (MP&L) and SERI have agreed to be bound by the existing antitrust license conditions currently a part of the Grand Gulf licenses until the staff completes its antitrust review of the September 2, 1986 amendment request. Moreover, as a result of the review of the instant amendment request conducted by the staff, an additional license condition will be added to the Grand Gulf Unit 1 operating license and the Grand Gulf Unit 2 construction permit. This new license condition is similar to the antitrust license condition added to Waterford 3 and ANO Unit 2, as a result of similar amendment requests, in that it holds the responsible party(s) accountable and responsible for the actions of their agents to the extent said agent's actions contravene the existing antitrust license conditions.

Wholesale Customers requested the NRC to either extend the existing license conditions imposed on the Grand Gulf facility to the entire multi-state territory served by Entergy Corporation's nuclear plants by imposing similar license conditions on ANO Unit 2 or extending the geographic area applicable to the Grand Gulf license conditions to encompass the entire area served by Entergy Corporation. Wholesale Customers have not expressly addressed the competitive implications of the addition of EOI as operator of the facility. They also have not



provided any other information which would allow antitrust conditions to be imposed upon ANO Unit 2 or new conditions imposed on Grand Gulf extending the geographic reach of the existing conditions. Formal antitrust reviews for facilities with operating licenses are only required when there are significant changes in the licensee's activities from the previous antitrust review. In South Carolina Electric and Gas Co. (Virgil C. Summer Nuclear Station, Unit 1), CLI 80-28, 11 NRC 817, 820, 835 (1980), the Commission held, among other things, that significant changed circumstances occur when there are changes which would create or maintain a situation inconsistent with the antitrust laws; an antitrust review of these changes is warranted only when it would likely be concluded that the changed situation has negative antitrust implications. See also, Houston Lighting and Power Co. (South Texas Units 1&2), CLI 77-135, 5 NRC 1303, 1317 (1977). Wholesale Customers contend that changed circumstances have resulted from a FERC decision requiring the costs of Grand Gulf Unit 1 to be shared by all of the subsidiaries of Entergy Corp. However, they have not provided proof, nor furnished adequate explanation, as to why this accounting change constitutes anticompetitive activity or has adverse antitrust implications. In addition, Wholesale Customers contend that license conditions are necessary since their existing wholesale contracts do not contain the type of terms and conditions that are included in contracts resulting from antitrust reviews associated with other nuclear facilities. This assertion likewise does not constitute a changed circumstance since Wholesale Customers have not established how the absence of these terms in their contracts creates or maintains a situation inconsistent with the antitrust laws.

In its review of the proposed amendment adding EOI to the ANO Unit 2 license, the staff was concerned with what role EOI would play in marketing or brokering of power or energy from each of the Entergy Corporation nuclear units. In an effort to avoid a formal antitrust review, the licensee has agreed to add an antitrust license condition to its ANO Unit 2 license that will effectively preclude EOI from using power or energy from ANO Unit 2 in a manner that would affect competition in bulk power services throughout AP&L's service area. Moreover, the same license condition will hold AP&L responsible and accountable for the actions of its agents, including EOI, that pertain to marketing or brokering of power or energy from ANO Unit 2. The staff feels this license condition will ensure that EOI will do no more than operate ANO Unit 2 and will not be involved in the competitive arena associated with marketing or brokering of power or energy. As a result of these actions, the staff has completed its antitrust review of this amendment request.

Two antitrust license conditions will be included in the Grand Gulf Unit 2 Construction Permit No. CPPR-119:

(a) MP&L and SERI shall comply with the antitrust conditions delineated in Paragraph 3.D. MP&L is authorized to transfer its rights under CPPR-119 to construct the facility to SERI, provided however, that until further authorization of the Commission, MP&L and SERI shall continue to be responsible for compliance with the obligations imposed on the licensees in these antitrust conditions, and provided further that SERI accepts its rights under CPPR-119 to construct the facility subject to the outcome of the pending separate antitrust review of the antitrust considerations related to the application dated September 2, 1986. SERI is authorized to transfer its right to construct the facility to EOI.

(b) MP&L and SERI are responsible and accountable for the actions of their respective agents to the extent said agent's actions contravene the existing antitrust license conditions.

#### Restricted Data

SERI has addressed the limits on restricted data and other defense information and EOI agrees to the appropriate conditions of protection and processes. The current employees of SERI who are aware of and responsible for safeguarding information will transfer to EOI, therefore no reduction in understanding or responsibility is expected.

#### Security and Exclusion Area Control

The employees of SERI responsible for security will become EOI employees and EOI will continue to maintain and implement the security plans as previously found acceptable. Some transition changes may be appropriate to reflect SERI, MP&L, and EOI relationships but these changes should not decrease the effectiveness of the plans. Control of the exclusion area involving security and non-nuclear interfaces with SERI and MP&L, has been addressed by the licensee and includes consideration for normal and emergency access. Written procedures and agreements are appropriate to assure that NRC approved activities in and control of the exclusion area by EOI is maintained.

#### Quality Assurance Program

EOI will assume responsibility for the functions associated with the GGNS-2 quality assurance program. The organization, function, and structure of the GGNS quality assurance department will not be affected by this license amendment.

### 3.0 ENVIRONMENTAL CONSIDERATION

Pursuant to 10 CFR 51.21, 51.32 and 51.35, an environmental assessment and finding of no significant impact was published in the Federal Register on December 11, 1989 (54 FR 50827).

Accordingly, based upon the environmental assessment, the Commission has determined that issuance of this amendment will not have a significant effect on the quality of the human environment.

#### 4.0 CONCLUSION

This amendment is administrative for the purpose of transferring authority to control and perform licensed activities in the construction of GGNS-2 from SER1 to EOI. No technical or environmental conditions would be changed by the proposed amendment. The staff concludes that: (1) the proposed amendment to Construction Permit No. CPPR-119 does not involve a significant increase in the probability or consequences of accidents previously considered, does not create the possibility of an accident of a type different from any evaluated previously, does not involve a significant hazards considerations; (2) there is reasonably assurance that the health and safety of the public will not be endangered by construction and operation in the proposed manner; and (3) such activities will be in compliance with the Commission's regulations, and the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

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