

December 27, 1989

Docket No. 50-382A

Richard A. Glick, Esq.
Verner, Lipfert, Bernhard, McPherson
and Hand
Suite 700
901-15th Street, N.W.
Washington, D.C. 20005-2301

Re: Issuance of Amendment No. 60 to Facility Operating License
NPF-38; Waterford Steam Electric Station, Unit 3: Antitrust
Considerations

Dear Mr. Glick:

The staff has reviewed the information furnished by the applicant, Louisiana Power & Light Company (LP&L) as well as comments received from interested parties, including the City of New Orleans, Louisiana. As a result of the staff review, a license condition was added to the Waterford 3 operating license that holds LP&L accountable and responsible for any actions of its agents, including Entergy Operations, Inc. (EOI), that may contravene the existing antitrust license conditions which are now a part of the Waterford 3 license. Moreover, the staff would like to reassure you that the addition of EOI as the operator of the Waterford 3 facility in no way diminishes LP&L's obligations under the existing Waterford 3 antitrust license conditions.

I have enclosed a copy of the license amendment that authorized EOI to operate Waterford 3.

Sincerely,

Original Signed by

Eileen M. McKenna, Acting Chief
Policy Development and Technical
Support Branch
Program Management, Policy Development
and Analysis Staff
Office of Nuclear Reactor Regulation

Enclosure:
As stated

cc: Clinton A. Vance, Esq.
Glen L. Ortman, Esq.
Paul E. Nordstrom, ESq.
Okla Jones II, Esq.
Michael W. Tifft, Esq.

Distribution

Docket File No. 50-382A

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

December 14, 1989

Docket No. 50-352

Mr. J. G. Dewease
Senior Vice President - Nuclear Operations
Louisiana Power and Light Company
317 Baronne Street, Mail Unit 17
New Orleans, Louisiana 70112

Dear Mr. Dewease:

SUBJECT: ISSUANCE OF AMENDMENT NO. 60 TO FACILITY OPERATING LICENSE
NPF-38 - WATERFORD STEAM ELECTRIC STATION, UNIT 3
(TAC NO. 68412)

The Commission has issued the enclosed Amendment No. 60 to Facility Operating License No. NPF-38 for the Waterford Steam Electric Station, Unit 3. The amendment consists of changes to the License Conditions in response to your application dated July 1, 1988 as supplemented by letter dated August 15, 1989.

The amendment changes and adds License Conditions to reflect the transfer of operations and maintenance of the Waterford Steam Electric Station, Unit 3 to Entergy Operations, Inc. (EOI). Louisiana Power and Light Company (LP&L) will remain as the owner of the facility.

We have reviewed the operating agreement between EOI and LP&L and have determined that it is not appropriate to require it by a license condition. LP&L and EOI are joint licensees under the facility operating license conditions, each responsible for specific areas and jointly responsible for regulatory compliance and response. The operating agreement between LP&L and EOI will not circumvent these responsibilities. Finally, since EOI is to be the operator of the plant, we intend to communicate on most all matters with EOI. However, EOI is expected to communicate with LP&L to provide data, information, and other support, as may be necessary, to enable LP&L to satisfactorily discharge any responsibilities it may have as owner of the plant, with regard to maintaining regulatory compliance.

A copy of the Safety Evaluation supporting the amendment is also enclosed. Notice of Issuance will be included in the Commission's next biweekly Federal Register notice.


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Mr. J. G. Dewease

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Three copies of Amendment No. 5 to Indemnity Agreement No. B-92 which covers the activities authorized under License No. NPF-38 are also enclosed. Please countersign all copies and return one signed copy of Amendment No. 5 to this office.

Sincerely,


Dennis M. Crutchfield, Associate Director
for Special Projects
Office of Nuclear Reactor Regulation

Enclosures:

1. Amendment No. 60 to NPF-38
2. Safety Evaluation
3. Amendment No. 5 to Indemnity Agreement No. B-92

cc w/enclosures:
See next page

Mr. Jerrold G. Dewease
Louisiana Power & Light Company

Waterford 3

cc:
W. Malcolm Stevenson, Esq.
Monroe & Leman
201 St. Charles Avenue, Suite 3300
New Orleans, Louisiana 70170-3300

Regional Administrator, Region IV
U.S. Nuclear Regulatory Commission
Office of Executive Director for
Operations
611 Ryan Plaza Drive, Suite 1000
Arlington, Texas 76011

Mr. E. Blake
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW
Washington, D.C. 20037

Mr. William H. Spell, Administrator
Nuclear Energy Division
Department of Environmental Quality
Post Office Box 14690
Baton Rouge, Louisiana 70898

Resident Inspector/Waterford NPS
Post Office Box 822
Kilona, Louisiana 70066

Mr. Ralph T. Lally
Manager of Quality Assurance
Middle South Services, Inc.
Post Office Box 61000
New Orleans, Louisiana 70161

President, Police Jury
St. Charles Parish
Hahnville, Louisiana 70057

Chairman
Louisiana Public Service Commission
One American Place, Suite 1630
Baton Rouge, Louisiana 70825-1697

William A. Cross
Bethesda Licensing Office
3 Metro Center
Suite 610
Bethesda, Maryland 20814

Mr. R. F. Burski
Nuclear Safety and Regulatory Affairs Manager
Louisiana Power & Light Company
317 Baronne Street
New Orleans, Louisiana 70112



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

LOUISIANA POWER AND LIGHT COMPANY

DOCKET NO. 50-382

WATERFORD STEAM ELECTRIC STATION, UNIT 3

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 60
Licensee No. NFF-38

1. The Nuclear Regulatory Commission (the Commission) has found that:
- A. The application for amendment by Louisiana Power and Light Company (the licensee) dated July 1, 1988 as supplemented by letter dated August 15, 1989, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter 1;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this amendment 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;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

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2. Accordingly, the license is amended by changes to the License Conditions as indicated in the attachment to this license amendment.
3. This license amendment is effective as of its date of issuance. The license conditions are effective within 180 days of the date of issuance and upon the official transfer of responsibilities between the Louisiana Power & Light Company and Entergy Operations, Inc.

FOR THE NUCLEAR REGULATORY COMMISSION

Frederick J. Hedder
Frederick J. Hedder, Director
Project Directorate IV
Division of Reactor Projects - III,
IV, V and Special Projects
Office of Nuclear Reactor Regulation

Attachment:
Changes to the License
Conditions

Date of Issuance: December 14, 1989

ATTACHMENT TO LICENSE AMENDMENT NO. 60
TO FACILITY OPERATING LICENSE NO. NPF-38
DOCKET NO. 50-382

Replace the following pages of the License with the attached pages. The revised pages contain vertical lines indicating the areas of change.

Remove

Pages 1 thru 8
Attachment 2

Insert

Pages 1 thru 8
Attachment 2



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

LOUISIANA POWER AND LIGHT COMPANY

ENERGY OPERATIONS, INC.

DOCKET NO. 50-382

WATERFORD STEAM ELECTRIC STATION, UNIT 3

FACILITY OPERATING LICENSE

License No. NPF-38
Amendment No. 60

1. The Nuclear Regulatory Commission (the Commission or the NRC) has found that:
 - A. The application for license filed by the Louisiana Power and Light Company (LP&L) 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 Waterford Steam Electric Station, Unit 3 (facility), has been substantially completed in conformity with Construction Permit No. CPPR-103 and the application as amended, the provisions of the Act, and 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 (except as exempted from compliance in Sections 1.1. and 2.D. below);
 - D. There is reasonable assurance: (i) 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 (except as exempted from compliance in Sections 1.1. and 2.D below);

- 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 1;
 - F. LP&L has 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 weighting the environmental, economic, technical, and other benefits of the facility against environmental and other costs, and after considering available alternatives, the issuance of the Facility Operating License No. NPF-38, subject to the conditions for protection of the environment set forth in the Environmental Protection Plan attached as Appendix B, 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, except that an exemption to the provisions of 10 CFR 70.24 is granted as described in Supplement No. 8 to the Safety Evaluation Report. This exemption is authorized under 10 CFR 70.24(d) and will not endanger life or property or the common defense and security and is otherwise in the public interest.
2. Pursuant to approval by the Nuclear Regulatory Commission at a meeting on March 15, 1985, the license for fuel loading and low power testing, License No. NPF-26, issued on December 18, 1984, is superseded by Facility Operating License No. NPF-38 hereby issued to the Louisiana Power and Light Company and Entergy Operations, Inc., to read as follows:
- A. This license applies to the Waterford Steam Electric Station, Unit 3, a pressurized water reactor and associated equipment (the facility), owned by Louisiana Power and Light Company. The facility is located on LP&L's site in St. Charles Parish, Louisiana and is described in the Louisiana Power and Light Company Final Safety Analysis Report as amended, and the Environmental Report as amended.

- B. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses:
1. LP&L, pursuant to Section 103 of the Act and 10 CFR Part 50, to possess but not operate the facility at the designated location in St. Charles Parish, Louisiana in accordance with the procedures and limitations set forth in this license;
 2. EO1, pursuant to Section 103 of the Act and 10 CFR Part 50, to possess, use and operate the facility at the designated location in St. Charles Parish, Louisiana in accordance with the procedures and limitations set forth in this license;
 3. EO1, pursuant to the Act and 10 CFR Part 70, to receive, possess, and use at any time at the facility site and as designated solely for the facility, 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. EO1, 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 fissile detectors in amounts as required;
 5. EO1, 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 in chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and
 6. EO1, 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 authorized herein.
 7. (a) LP&L, to transfer any portion of its 100% undivided ownership interest (up to and inclusive of \$515 million of aggregate appraised value) in the facility to equity investors, and at the same time lease back from such equity investors, such interests sold in the facility and receive from such equity investors, consistent with LP&L's leases, the right to use and enjoy the benefits of the undivided ownership interests sold in the facility. The terms of the leases are for approximately 27½ years subject to right of renewal. Such sale and leaseback transactions are subject to the condition that the equity investors and anyone else

who may acquire an interest under this transaction(s) are prohibited from exercising directly or indirectly any control over (i) the facility, (ii) power or energy produced by the facility, or (iii) the licensee of the facility. Further, any rights acquired under this authorization may be exercised only in compliance with and subject to the requirements and restrictions of this operating license, the Atomic Energy Act of 1954, as amended, and the NRC's regulations. For purposes of this condition, the limitations of 10 CFR 50.81, as now in effect and as they may be subsequently amended, are fully applicable to the equity investors and any successors in interest to the equity investors, as long as the license for the facility remains in effect.

- (L) LP&L, (or its designee) to notify the NRC in writing prior to any change in (i) the terms or conditions of any lease agreements executed as part of the above authorized financial transactions, (ii) any facility operating agreement involving a licensee that is in effect now or will be in effect in the future, or (iii) the existing property insurance coverages for the facility, that would materially alter the representations and conditions, set forth in the staff's Safety Evaluation enclosed to the NRC letter dated September 18, 1989. In addition, LP&L or its designee is required to notify the NRC of any action by equity investors or successors in interest to LP&L that may have an effect on 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 3390 megawatts thermal (100% power) in accordance with the conditions specified herein and in Attachment 1 to this license. 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

The Technical Specifications contained in Appendix A, as revised through Amendment No. 58, and the Environmental Protection Plan contained in Appendix D, 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. LP&L shall comply with the antitrust license conditions in Appendix C to this license.
- b. LP&L is responsible and accountable for the actions of its agents to the extent said agent's actions contravene the antitrust license conditions in Appendix C to this license.

4. Broad Range Toxic Gas Detectors (Section 2.2.1, SSER 6*)

Prior to startup following the first refueling outage, the licensee* shall propose technical specifications for the Broad Range Toxic Gas Detection System for inclusion in Appendix A to this license.

5. Initial Inservice Inspection Program (Section 6.6, SSER 5)

By June 1, 1965, the licensee must submit an initial inservice inspection program for staff review and approval.

6. Environmental Qualification (Section 3.11, SSER 8)

Prior to November 30, 1965, the licensee shall environmentally qualify all electrical equipment according to the provisions of 10 CFR 50.49.

7. Axial Fuel Growth (Section 4.2, SSER 5)

Prior to entering Startup (Mode 2) after each refueling, the licensee shall either provide a report that demonstrates that the existing fuel element assemblies (FEA) have sufficient available shoulder gap clearance for at least the next cycle of operation, or identify to the NRC and implement a modified FEA design that has adequate shoulder gap clearance for at least the next cycle of operation. This requirement will apply until the NRC concurs that the shoulder gap clearance provided is adequate for the design life of the fuel.

*The parenthetical notation following the title of many license conditions denotes the section of the Safety Evaluation Report and/or its supplements wherein the license condition is discussed.

*The license originally authorized LP&L to possess, use and operate the facility. Consequently, certain historical references applicable to LP&L as the "Licensee" appear in these license conditions.

8. Emergency Preparedness (Section 13.3, SSER 8)

In the event that the NRC finds that the lack of progress in completion of the procedures in the Federal Emergency Management Agency's final rule, 44 CFR Part 350, is an indication that a major substantive problem exists in achieving or maintaining an adequate state of emergency preparedness, the provisions of 10 CFR Section 50.54(s)(2) will apply.

9. Fire Protection (Section 9.5.1, SSER 8)

EOI shall implement and maintain in effect all provisions of the approved fire protection program as described in the Final Safety Analysis Report for the facility through Amendment 36 and as approved in the SEK through Supplement 9, subject to the following provision:

EOI may make changes to the approved fire protection program without prior approval of the Commission only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire.

10. Post-Fuel-Loading Initial Test Program (Section 14, SSER 10)

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.

11. Emergency Response Capabilities (Section 22, SSER 8)

EOI shall comply with the requirements of Supplement 1 to NUREG-0737 for the conduct of a Detailed Control Room Design Review (DCRDR). Prior to May 1, 1985, the licensee shall submit for staff review and approval the DCRDR Summary Report, including a description of the process used in carrying out the function and task analysis performed as a part of both the DCRDR and the Procedures Generation Package efforts.

12. Reactor Coolant System (RCS) Depressurization Capability (Section 5.4.3, SSER B)

By June 18, 1985, the licensee shall submit the results of confirmatory tests regarding the depressurization capability of the auxiliary pressurizer spray (APS) system. This information must demonstrate that the APS system can perform the necessary depressurization to meet the steam generator single-tube rupture accident acceptance criteria (SRP 15.E.3) with loop charging isolation valve failed open. Should the test results fail to demonstrate that the acceptance criteria are met, the licensee must provide for staff review and approval, justification for interim operation, and a schedule for corrective actions.

13. Response to Salex ATWS Event (Section 7.2.9, SSER 8)

The licensee shall submit responses and implement the requirements of Generic Letter 83-28 on a schedule which is consistent with that given in the licensee's letter of May 30, 1984.

14. Fuel Movement in the Fuel Handling Building

In the fuel handling building, during Modes 1-5, no more than one fuel assembly shall be outside an approved shipping container, an approved storage rack, the fuel transfer tube (including upender), the fuel elevator, or the spent fuel handling machine.

In addition to the above fuel assembly inspection/reconstitution may take place outside of an approved storage rack, when required, provided that the inspection/reconstitution area is located to a level at or above 1720 ppm.

15. Qualification of Personnel (Section 13.1.3, SSER 8)

EOI shall have on each shift operators who meet the requirements described in Attachment 2. Attachment 2 is hereby incorporated into this license.

16. Operational QA Enhancement Program (SSER 9)

The items listed below shall be completed on the schedule indicated.

- a. Prior to completion of Phase III of the Waterford 3 startup test program, the licensee shall conduct a comprehensive audit of the Operational QA Program that will include a summary QA document of the Operational QA Program, the definition of responsibilities and interfaces, and guidance on the location of information on QA matters at all levels of concern.
- b. Prior to completion of Phase III of the Waterford 3 startup test program, the licensee shall supplement its existing QA training program to incorporate specific discussion of QA problems experienced during construction and how this experience applies to operational activities.
- c. Prior to completion of Phase III of the Waterford 3 startup test program, the licensee shall address each of the recommendations in the Task Force Support Group (TFSG) Limited Scope Audit Report of LP&L Operational Quality Assurance Program, dated December 4, 1984.

- d. Prior to completion of Phase III of the Waterford 3 startup test program, the licensee shall complete corrective actions related to the 23 NRC issues as identified in the LP&L responses.

17. Basemat

The licensee shall comply with its commitments to perform a basemat cracking surveillance program and additional confirmatory analyses of basemat structural strength as described in its letter of February 25, 1985. Any significant change to this program shall be reviewed and approved by the NRC staff prior to its implementation.

- D. The facility requires an exemption from certain requirements of Appendices E and J to 10 CFR Part 50. These exemptions are described in the Office of Nuclear Reactor Regulation's Safety Evaluation Report, Supplement No. 10 (Section E.1.2) and Supplement No. 8 (Section E.2.6), respectively. These exemptions are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. These exemptions are, therefore, hereby granted pursuant to 10 CFR 50.12. With the granting of these exemptions, the facility will operate, to the extent authorized herein, in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.
- E. EOI shall fully implement and maintain in effect all provisions of the Commission-approved physical security, guard training and qualification, and safeguards contingency plans including amendments made pursuant to 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 plans, which contain Safeguards Information protected under 10 CFR 73.21, are entitled: "Waterford Physical Security Plan," with revisions submitted through March 21, 1988; "Waterford Security Training and Qualification Plan," with revisions submitted through December 16, 1983; and "Waterford Safeguards Contingency Plan," with revisions submitted through January 6, 1987. Changes made in accordance with 10 CFR 73.55 shall be implemented in accordance with the schedule set forth therein.
- F. Except as otherwise provided in the Technical Specifications or the Environmental Protection Plan, EOI shall report any violations of the requirements contained in Section 2.C 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 follow-up within 30 days in accordance with the procedures described in 10 CFR 50.73(b), (c) and (e).
- G. LP&L 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.

Waterford Steam Electric Station
Operating License NPF-38

Operating Staff Experience Requirements

EOL shall have a licensed senior operator on each shift who has had at least six months of hot operating experience on a pressurized water reactor, including at least six weeks at power levels greater than 20% of full power, and who has had startup and shutdown experience. For those shifts where such an individual is not available on the plant staff, an advisor shall be provided who has had at least four years of power plant experience, including two years of nuclear plant experience, and who has had at least one year of experience on shift as a licensed senior operator at a similar type facility. Use of advisors who were licensed only at the RO level will be evaluated on a case-by-case basis. Advisors shall be trained on plant procedures, technical specifications and plant systems, and shall be examined on these topics at a level sufficient to assure familiarity with the plant. For each shift, the remainder of the shift crew shall be trained in the role of the advisors. Advisors, or fully trained and qualified replacements, shall be retained until the experience levels identified in the first sentence above have been achieved. The names of any replacement advisors shall be certified by EOL prior to these individuals being placed on shift. The NRC shall be notified at least 30 days prior to the date EOL proposes to release the advisors from further service.



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

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
RELATED TO AMENDMENT NO. 60 TO
FACILITY OPERATING LICENSE NO. NFF-38
LOUISIANA POWER AND LIGHT COMPANY
WATERFORD STEAM ELECTRIC STATION, UNIT 3
DOCKET NO. 50-382

1.0 INTRODUCTION

By application dated July 1, 1988 as supplemented by letter dated August 15, 1989, Louisiana Power and Light Company (LP&L or the licensee) requested changes to the License Conditions to Facility Operating License No. NFF-38 for the Waterford Steam Electric Station, Unit 3. The proposed changes would transfer the operating responsibility to Entergy Operations, Inc. (EOI). This proposed action is also being taken for the Arkansas Nuclear One, Units 1 and 2 (ANO-1&2) and Grand Gulf, Units 1 and 2. The ownership of Waterford 3 will remain with LP&L, the ownership of ANO-1&2 will remain with Arkansas Power and Light Company, and the ownership of Grand Gulf, Units 1 and 2 will remain primarily with Systems Energy Resources, Inc. (SERI).

2.0 DISCUSSION

As early as May 1988, the licensees for Waterford 3 and Arkansas Nuclear One, Units 1 and 2 announced with SERI the proposed transfer of operations and maintenance responsibilities to SERI. Subsequently, by application dated August 15, 1989, LP&L has proposed the transfer of operations and maintenance to EOI. Entergy Operations, Inc. is to be a new company and subsidiary of Entergy Corporation, formerly known as Middle South Utilities, Inc. EOI is also proposed to operate and maintain ANO-1&2 and Grand Gulf 1&2. The nuclear staff of each of the facilities would be transferred to EOI and only those activities requiring immediate attention would be proposed for the necessary changes in the initial amendment. Our evaluation of these changes is provided in the Evaluation section.

The consolidation of the nuclear staff under EOI would not affect the ownership of the plants and is being proposed for the benefits enumerated by the licensee. These benefits are listed, among other places, in the licensee's June 1, 1988 (Reference 1), July 1, 1988 (Reference 2), and August 15, 1989 (Reference 8) submittals and, as stated by the licensee, include the following:

- 1) EOI will have a repository of system nuclear operating expertise and experience. Consolidation into one nuclear operating company will enhance public safety and economic operations.

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- 2) EOI will be better able to provide a consistent philosophy of operation of the system nuclear units. This focused philosophy can be used to achieve excellence in all aspects of nuclear operation.
- 3) The consolidation will allow more effective communication and use of system nuclear operating experience.
- 4) Certain non-nuclear support functions will become specialized and focused on the requirements of a nuclear operation company and will thereby be more effective in their support of Waterford 3.
- 5) Creation of a system-wide nuclear operating company will contribute to a higher sustained level of employee performance, provide a broader base for more competitive environment for upper management candidates, provide an environment in which all employees will be more highly motivated toward high performance, and provide greater opportunity for career progression.
- 6) Consolidation will make salary structures, career path policies, and procedures internally consistent and will separate nuclear from non-nuclear employees, which will permit managers to focus on special needs and requirements of nuclear employees. This will allow EOI to be competitive in the market for skilled employees and certain quality individuals once recruited.

The information provided by the licensee is to support the transfer of operating responsibility to EOI and the attainment of the above benefits will depend on the licensee's (or EOI's) development and implementation of effective programs and controls.

Early in the review the NRC expressed the need for the licensee to keep the public and other agencies informed of the proposed transfer of operations to SERI (now EOI). By letters dated September 9, 1988, October 13, 1988, and September 22, 1989 (References 4, 6 and 9), the licensee outlined their efforts in this regard. The NRC staff also contacted the designated State Official, Administrator, Nuclear Energy Division, Office of Environmental Affairs, State of Louisiana, and discussed the proposed transfer.

3.0 EVALUATION

The staff's evaluation is of the licensee's submittal dated July 1, 1988 (Reference 2) as supplemented by letter dated August 15, 1989 (Reference 8) and from supporting information in the proposed Operating Agreement between LP&L and SERI (now EOI) as contained in the licensee's submittal dated October 12, 1988 (Reference 5). The proposed Operating Agreement between the licensee and EOI delineates their respective responsibilities in operating the plant commensurate with NRC requirements, including those contained in License Conditions. After issuance of the license amendment

and the effective date of the transfer of operation to EOI, the NRC will normally communicate with LP&L through EOI and any changes to the Operating Agreement to fulfill NRC requirements will be an LP&L and EOI matter not to influence or delay implementation of the NRC requirement.

The staff in making its evaluation has applied the criteria and review areas required by 10 CFR 50.80 "Transfer of Licenses" as appropriate. The transfer of operator of the facility from LP&L to EOI simplified the review in that the LP&L personnel currently acting in all areas as nuclear operations personnel will transfer to EOI and the creation of EOI as an operating company will remain, along with LP&L as owner, within the existing company of Entergy Corporation.

Management and Technical Qualifications

The requested change would transfer LP&L's nuclear organization so that the Senior Vice President - Nuclear Operations for Waterford, Unit 3 will report to the President of EOI through the Executive Vice President and Chief Operating Officer. The present nuclear organization, down through the plant staff, will remain essentially in place as EOI employees. Therefore, the technical qualifications of the proposed Waterford Unit 3 organization will be at least equivalent to the existing organization. This includes engineering support which, at Waterford 3, is an integral part of the nuclear Operations organization.

We find the requested change acceptable as it meets the acceptance criteria of Section 13.1 of NUREG-0800, the Standard Review Plan. This requested change does not require any revision to Section 6 of the Technical Specifications for Waterford, Unit 3.

Financial Considerations

The ownership of the facility and all rights to electric power from the facility will remain with LP&L. In addition, as stated on page 15 of LP&L's Application to Amend Facility Operating License No. NPF-38 dated August 15, 1989, (Reference 8) "Pursuant to an operating agreement between EOI and LP&L, all costs for the operation, construction, maintenance, repair, decontamination and decommissioning of Waterford 3 incurred or accrued are liabilities of LP&L when incurred or accrued." The staff notes, however, that Article V, Section 5.1 of the proposed Operating Agreement between LP&L and EOI as transmitted by letter dated September 27, 1989 (Reference 10), suggests that LP&L may not agree to pay for operation and capital improvement costs that exceed either (1) the annual budget for the facility to which LP&L 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 nor LP&L is permitted to delay or withhold payment due and owing under the Proposed Operating Agreement except that LP&L shall have the right to make any contested payments under protest. The staff understands the provisions contained in Sections 5.1 and 11.5 of that Proposed Operating Agreement taken together do not contradict LP&L's commitment, as referenced above, to pay for all costs for the operation, construction, maintenance, repair,

decontamination and decommissioning of Waterford 3. The staff further expects that any final operating agreement between EOI and LP&L will continue with these same understandings.

LP&L is currently subject to the retail rate jurisdiction of the Louisiana Public Service Commission and the City Council of New Orleans. Since LP&L is an electric utility, it does not have to provide additional information to the Commission to demonstrate its financial qualification to carry out the activities for which the license amendment is sought.

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 operation of Waterford 3 are not expected to be gained at the expense of public health and safety given LP&L's continuing commitment to pay the costs, including safety-related costs, of Waterford 3. Thus, the staff concludes that the financial consequences of the proposed action will not adversely affect protection of public health and safety.

Antitrust

The license amendment request transferring the operation of Waterford 3 from LP&L 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 ANO Unit 2 and Grand Gulf nuclear units, were published in the Federal Register on November 1, 1989 (FR Vol. 54, 46168). Comments were received from a group of wholesale electric customers (Wholesale Customers) of the Arkansas Power & Light Company and also from the City of New Orleans, Louisiana (New Orleans).

The comments received from New Orleans were specifically related to the existing antitrust license conditions attached to Louisiana Power & Light Company's (LP&L) Waterford 3 nuclear facility. New Orleans expressed concern that the proposed transfer of operating responsibility of Waterford 3 from LP&L to EOI would in some way relieve LP&L of its obligations to comply with the antitrust license conditions. New Orleans also requested the staff to require EOI to abide by the same antitrust license conditions, ". . . to the extent EOI is able to commit antitrust violations, it should be subject to those conditions for the same reasons that compelled their original application to LP&L."

As indicated supra, the staff was also concerned with what role EOI would play in the marketing and brokering of power from the Entergy Corporation nuclear units, including Waterford 3. As a result of the staff review, a new license condition, which LP&L has agreed to, will be added to the Waterford 3 license. (LP&L's obligations under the existing antitrust license conditions will not change.) Although the new license condition does not obligate EOI to the existing antitrust license conditions, it provides meaningful remedy for potential violations of these license conditions by any of LP&L's agents, including EOI. The new license

condition will hold LP&L responsible and accountable for the actions of its agents to the extent said agent's actions contravene the antitrust license conditions in Appendix C of the Waterford 3 license. The integrity of the antitrust license conditions is thereby maintained and the owner of Waterford 3, LP&L, will have a substantial vested interest in prohibiting violations of the antitrust license conditions by any entity acting in its behalf. The staff believes the new license condition coupled with the reassurance that LP&L will continue to be bound by the existing antitrust license conditions resolves the concerns raised by New Orleans.

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 BC-28, 11 NRC 817, 820, 835 (1980), the Commission held, among other things, that significant changed circumstances occur when there are charges 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.

License Conditions

A license condition will be added that holds LP&L responsible and accountable for the actions of its agents to the extent said agent's actions contravene the antitrust license conditions in Appendix C of this license.

Restricted Data

The licensee 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 LP&L who are aware of and responsible for safeguarding information will transfer to EOI; therefore, no reduction in understanding or responsibility is expected.

Emergency Planning

The licensee proposes to transfer to EOI the authority and responsibilities for functions necessary to fulfill the emergency planning requirements specified in 10 CFR 50.47(b) and Part 50, Appendix E. There will be no initial changes to the Waterford 3 emergency plan or planning organization.

The EOI organization may, in the future, add organizational components to assume overall emergency planning. In a letter dated July 28, 1988, the NRC stated its position on plan and program centralization and NRC approvals. With centralization, plans may be transferred to another area or site. Our concern will be that the new organization possesses the technical capabilities as was found acceptable at the Waterford 3 site. Any changes with the plans or programs at the site may be made in accordance with established rules and processes. Since it is not clear that the rules and processes contemplated such drastic changes as transfer to a new organization at a new site, the NRC has determined and the licensee has agreed that the initial plan and program change to a new site would be reviewed by the NRC prior to the change. Subsequent changes would revert to current established practices. This understanding with the licensee and SERI (and now EOI) applies to areas other than Emergency Planning as well.

The current and eventual emergency plan will depend upon a continuing working arrangement between LP&L and EOI. Certain support functions will remain with LP&L and LP&L can be expected to provide emergency non-nuclear support from other company areas as needed. We find this sense of cooperation both essential and acceptable.

Offsite Power

General Design Criterion 17 requires that there be an assured source of power to the plant. The offsite power available to Waterford 3 and as found acceptable to the NRC is as described in the Final Safety Analysis Report. With the transfer to EOI, this will not change; however, arrangements have been proposed for the interface between EOI as operator of a nuclear plant and LP&L non-nuclear employees for the upkeep and maintenance of offsite power ties to the plant. These arrangements are to assure that the NRC's acceptance of the offsite power to Waterford 3 is continued.

Security and Exclusion Area Control

The employees of LP&L 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 LP&L and EOI relationships but it is not expected that these changes will decrease the effectiveness of the plans. Processes are underway to address such changes. Control of the exclusion area involving security and non-nuclear interfaces with LP&L has been addressed by the licensee and include considerations for normal and emergency access and appropriate continuing control of Waterford 1 and 2 activities by LP&L. Written procedures and agreements are appropriate to assure that NRC approved activities in and control of the exclusion area is maintained.

Quality Assurance Program

EOI will assume responsibility of the functions associated with the Waterford 3 quality assurance program. The organization, function, and structure of the Waterford 3 quality assurance department will not be affected by this license amendment. As discussed in the Emergency Plan section above, any proposed change to centralize plans to a new site will require NRC initial approval; the quality assurance plans also fall in the category and understanding with LP&L and EOI.

Training

The licensee has stated that the training program, requirements, and maintenance of the Institute of Nuclear Power Operations accreditation for licensed and non-licensed training will continue as before but under EOI. Processes for NRC approval of changes that may decrease the scope of the approved operator requalification program will continue as before.

License Conditions

The licensee has proposed changes to the license conditions to reflect EOI operation and maintenance of Waterford 3 and continued LP&L ownership of Waterford 3. We have reviewed the proposed license conditions and recommend two changes. Reactor fuel at Waterford 3 is to remain at Waterford 3 unless specific approval is obtained otherwise. The license condition for EOI to receive, possess, and use reactor fuel is to be modified to reflect Waterford reactor fuel at the Waterford site. A license condition will be added that holds LP&L responsible and accountable for the actions of its agents to the extent said agent's actions contravene the antitrust license conditions in Appendix C of this license. The licensee agrees to these changes.

4.0 CONTACT WITH STATE AND OTHER OFFICIALS

The NRC staff has advised the Administrator, Nuclear Energy Division, Office of Environmental Affairs, State of Louisiana of the proposed determination of no significant hazards consideration. No comments were received on the no significant hazards consideration. The NRC did receive comments on intent to review from the City of New Orleans as a result of the Commission's notice, 53 FR 46725 dated November 18, 1988, on antitrust matters (see Reference 7) and from representatives of the City of New Orleans (see Reference 11) and from representatives of the cities of Benton, Conway, North Little Rock, Osceola, Prescott, and West Memphis and the Farmers Electric Cooperative Corporation (see Reference 12) on antitrust matters as a result of the Commission's notice (54 FR 46168) dated November 1, 1989.

5.0 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 November 30, 1989 (54 FR 49371).

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.

6.0 CONCLUSION

Based upon its evaluation of the proposed changes to the Waterford 3 License Conditions, the staff has concluded that: there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, and such activities will be conducted 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.

Dated: December 14, 1989

Principal Contributors: D. Wigginton
F. Allenspach
R. Wood
W. Lambe

References

- 1) Letter dated June 1, 1988 from J. G. Dewease to NRC, Attention: D. M. Crutchfield, transmitting draft proposed amendment for SERI operation of Waterford 3.
- 2) Letter dated July 1, 1988 from J. G. Dewease to NRC, Attention: D. M. Crutchfield, transmitting application for amendment reflecting SERI operation of Waterford 3.
- 3) Letter dated July 28, 1988 from D. L. Wigginton to J. G. Dewease, subject "Systems Energy Resources, Inc. (SERI) License Amendment Application for Waterford 3" transmitting clarifications of positions and requesting LP&L response.
- 4) Letter dated September 9, 1988 from R. F. Burski to NRC, Attention: D. M. Crutchfield, response to NRC July 28, 1988 request for information (Reference 3 above).
- 5) Letter dated October 12, 1988 from R. F. Burski to NRC, subject "LP&L/SERI Proposed Operating Agreements" transmitting proposed operating agreements, Security and Exchange Commission submittals, letter reference 2) above, Louisiana Public Service Commission submittal, Council of the City of New Orleans submittal, and SERI Financial Statement dated June 30, 1988.
- 6) Letter dated October 13, 1988 from J. G. Cesare, Jr. (SERI) to NRC transmitting actions to keep public and appropriate agencies fully informed.
- 7) Letter dated December 5, 1988 from Glen L. Ortman to S. Chilk, providing comment by the City of New Orleans, Louisiana.
- 8) Letter dated August 15, 1989 from J. G. Dewease to NRC, transmitting application for amendment reflecting EOI operation of Waterford 3.
- 9) Letter dated September 22, 1989 from R. Burski to NRC regarding Entergy Operations, Inc. public information.
- 10) Letter dated September 27, 1989 from R. Burski to NRC regarding Securities and Exchange Commission Application.
- 11) Letter dated December 1, 1989 from R. A. Glick transmitting the letter dated December 1, 1989 from C. Vance, G. Ortman, and P. Nordstrom regarding Antitrust Comments.
- 12) Letter dated November 30, 1989 from Z. Wilson regarding Antitrust Comments.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON D. C. 20555

December 14, 1989

Docket No. 50-382

Amendment to Indemnity Agreement No. B-92
Amendment No. 5

Effective December 14, 1989, Indemnity Agreement No. B-92, between Louisiana Power and Light Company and the Nuclear Regulatory Commission, dated February 8, 1983, as amended, is hereby further amended as follows:

The following named licensee "Entergy Operations, Inc." is added to the indemnity agreement.

FOR THE U.S. NUCLEAR REGULATORY COMMISSION

Eileen M. McKenna

Eileen M. McKenna, Acting Chief
Policy Development and Technical Support Branch
Program Management, Policy Development
and Analysis Staff
Office of Nuclear Reactor Regulation

Accepted _____, 1989

By _____
Louisiana Power and Light
Company

Accepted _____, 1989

By _____
Entergy Operations, Inc.