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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
OFFICE OF SECRETARY
DOCKETING & SERVICE
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
GULF STATES UTILITIES COMPANY) Docket No. 50-458-OLA
)
(River Bend Station, Unit 1))
)

NRC STAFF'S RESPONSE TO LICENSEE'S
REQUEST FOR THE PRODUCTION OF DOCUMENTS

INTRODUCTION

Pursuant to 10 C.F.R. § 2.744 of the Commission's regulations, the staff of the Nuclear Regulatory Commission (Staff) hereby responds to "Gulf States Utilities Company's First Request for the Production of Documents to the U.S. Nuclear Regulatory Commission's Executive Director for Operations" (Licensee's Document Production Request), filed by Gulf State Utilities Company (Licensee) on August 26, 1994.¹

STAFF'S RESPONSES

I. LICENSEE'S GENERAL DOCUMENT REQUESTS

REQUEST FOR PRODUCTION OF DOCUMENTS G-1

Provide all documents that each witness who the NRC Staff expects to call as a witness, including any expert witness, at the NRC hearing on this matter has read or been shown relating to the subject of his testimony.

¹ The Staff and Licensee agreed that the Staff's responses to the Licensee's Document Production Request would be filed on September 30, 1994.

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STAFF'S RESPONSE

None. See the Staff's response to the Licensee's Interrogatory G-3, filed on September 19, 1994.

REQUEST FOR PRODUCTION OF DOCUMENTS G-2

Provide all documents that each person who the NRC expects to call as a witness, including as an expert witness, will rely upon or will otherwise use for his testimony at the hearing.

STAFF'S RESPONSE

None. See the Staff's response to the Licensee's Interrogatory G-4, filed on September 19, 1994.

REQUEST FOR PRODUCTION OF DOCUMENTS G-3

Provide all documents referenced in the statement of educational and professional qualifications of any expert witness the NRC expects to call at the NRC hearing on this matter.

STAFF'S RESPONSE

None. See the Staff's response to the Licensee's Interrogatory G-5, filed on September 19, 1994.

II. LICENSEE'S SPECIFIC DOCUMENT REQUESTS

REQUEST FOR PRODUCTION OF DOCUMENTS 1

Provide all documents relating to safety issues, concerns or allegations related to the operation of River Bend that have been identified or raised by Cajun to the NRC.

STAFF'S RESPONSE

None. See the Staff's response to the Licensee's Interrogatory 1, filed on September 19, 1994.

REQUEST FOR PRODUCTION OF DOCUMENTS 2

Provide documents related to meetings with the NRC, its employees or agents relating to safety matters at which Cajun was represented through its directors, officers, members, consultants, contractors, counselor, other agents, but neither GSU nor EOI was so represented.

STAFF'S RESPONSE

None. See the Staff's response to the Licensee's Interrogatory 2, filed on September 19, 1994.

REQUEST FOR PRODUCTION OF DOCUMENTS 3

Provide documents related to communication between Cajun and NRC, employees or agents concerning substantive safety matters. This request does not include documents where Cajun was merely listed as receiving a copy of a communication which was sent or received by EOI or GSU.

STAFF'S RESPONSE

None. See the Staff's response to the Licensee's Interrogatory 3, filed on September 19, 1994.

REQUEST FOR PRODUCTION OF DOCUMENTS 4

Provide documents which describe any limitations in Cajun's access to River Bend or to information regarding safe operation which existed prior to December 31, 1993.

STAFF'S RESPONSE

None. See the Staff's response to the Licensee's Interrogatory 4, filed on September 19, 1994.

REQUEST FOR PRODUCTION OF DOCUMENTS 5

Provide documents describing how Cajun's access to River Bend or its access to information regarding safe operation of River Bend has changed since EOI assumed responsibility on December 31, 1993.

STAFF'S RESPONSE

None. See the Staff's response to the Licensee's Interrogatory 5, filed on September 19, 1994.

REQUEST FOR PRODUCTION OF DOCUMENTS 6

Provide documents identifying any differences in the operation of River Bend by GSU as opposed to EOI which could adversely affect the margin of safety or the reasonable assurance of the public health and safety.

STAFF'S RESPONSE

None. See the Staff's response to the Licensee's Interrogatory 6, filed on September 19, 1994.

REQUEST FOR PRODUCTION OF DOCUMENTS 7

Provide documents which describe any NRC requirements or guidance on the access to be given to INPO documents to a licensee which is a co-owner, but had not been found to be technically qualified by the NRC.

STAFF'S RESPONSE

None. See the Staff's response to the Licensee's Interrogatory 7, filed on September 19, 1994.

REQUEST FOR PRODUCTION OF DOCUMENTS 8

Provide documents related to the NRC's scope of review to assure that financial difficulties or problems of a licensee or licensees of a commercial, light-water nuclear power station do not affect the safe operation of such facility or facilities.

STAFF'S RESPONSE

The following regulations relate to the NRC's scope of review to assure that financial difficulties or problems of a licensee or licensees of a commercial light-water nuclear power station do not affect the safe operation of such facility or facilities:

10 C.F.R. § 50.33(f)
10 C.F.R. Part 50, Appendix C

These regulations are publicly available.

REQUEST FOR PRODUCTION OF DOCUMENTS 9

Provide documents related to utilization of such remedies available to the NRC where it has determined that safe operation has been or could be potentially affected by financial issues.

STAFF'S RESPONSE

None. See the Staff's response to the Licensee's Interrogatory 10, filed on September 19, 1994.

REQUEST FOR PRODUCTION OF DOCUMENTS 10

Provide documents related to utilization of such remedies discussed in Document Request 9 in the past for commercial, light-water nuclear power stations.

STAFF'S RESPONSE

None. See the Staff's response to request for production of documents 9.

REQUEST FOR PRODUCTION OF DOCUMENTS 11

Provide documents related to the scope and criteria for NRC review of the safe operation of a facility when the holder of an operating license has filed for bankruptcy protection.

STAFF'S RESPONSE

The Staff is unaware of any documents that relate to the scope and criteria for NRC review of the operation of a facility when the holder of an operating license has filed for bankruptcy protection. As discussed in the Staff's response to the Licensee's Interrogatory 11, the Staff has reviewed requests for the transfer of control of licenses where certain licensees have filed for bankruptcy. Documents related to these individual reviews are referenced in response to the Licensee's Request for Production of Documents 13.

REQUEST FOR PRODUCTION OF DOCUMENTS 12

Provide documents relating to any NRC present or contemplated required showing of financial qualifications by a non-owner operator of a facility where the owners of such facility were obligated to provide funding or are electric utilities as defined in 10 C.F.R. § 50.2.

STAFF'S RESPONSE

The Staff assumes that Request for Production of Documents 12 relates to the Licensee's Interrogatory 15. As stated in the Staff's response to the Licensee's Interrogatory 15, the Staff has not required a showing of financial qualifications by a non-owner operator of a facility where the owners of the facility who were obligated to provide funding were electric utilities as defined by 10 C.F.R. § 50.2. The following documents, however, discuss the Staff's contemplated action relative to financial issues and ownership arrangements:

1. "Issuance of an Advanced Notice of Proposed Rulemaking on the Potential Impact on Safety of Power Reactor Licensee Ownership Arrangements," SECY-93-075, (Available in the Public Document Room, Accession Number 9305210089).
2. Memorandum for James M. Taylor, Executive Director for Operations from Samuel J. Chilk, Secretary, Subject: Secy-93-075 - Issuance of an Advanced Notice of

Proposed Rulemaking on the Potential Impact on Safety of Power Reactor Licensee Ownership Arrangements, April 28, 1993 (Available in the Public Document Room, Accession Number 9305210253).

3. "Power Reactor Ownership Arrangements and their Potential Impact on Safety," Management Report, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, October 7, 1991. (This report is available for inspection and copying.).

Pursuant to 10 C.F.R. § 2.744, the following document is protected from disclosure:

Memorandum from William C. Parler to James M. Taylor, subject: "Legal and Financial Liability of Nonoperating Owners of Licensed Facilities," December 18, 1991.

Section 2.744 provides that a requested document need not be produced if it is either not relevant or it is exempt from disclosure under section 2.790 and disclosure is not necessary to a proper decision in the proceeding or the information therein is reasonably obtainable from another source. 10 C.F.R. § 2.744(d). This document is exempt from disclosure pursuant to 10 C.F.R. § 2.790(a)(5) because it is protected by the attorney-client privilege. As the title of the document indicates, this document was prepared by the NRC's General Counsel and provided to the Executive Director for Operations, in confidence, for the purpose of obtaining legal advice. This privilege has not been waived. *In the Matter of Henry Allen, Diane Marrone, and Susan Settino*, CLI-94-8, 39 NRC 336, 356 (1994).

This document is also not necessary to a proper decision in this proceeding and information related to the issue discussed in the document is reasonably obtainable elsewhere, such as in the three documents referenced above. There is no overriding need for this document, therefore, it need not be produced. *See Georgia Power Co.* (Vogtle

Electric Generating Plant, Units 1 and 2), CLI-94-5, 39 NRC 190, 198 (1994)("Once the applicability of the privilege has been established, the litigant seeking the information must demonstrate an overriding need for the material").

REQUEST FOR PRODUCTION OF DOCUMENTS 13

Provide all other documents identified in the Response to Gulf States Utilities -- Company's First Set of Interrogatories to the U.S. Nuclear Regulatory Commission Staff dated August 26, 1994 which have not been previously provided in response to specific requests for documents above.

STAFF'S RESPONSE

In response to the Licensee's Interrogatory 11, the Staff referenced, although did not specifically identify, certain requests made by licensees regarding the transfer of control of a license. Documents related to these requests are identified below:

1) Regarding Seabrook Station and Public Service Company of New Hampshire:

a) Letter to Mr. Ted C. Feigenbaum, President and Chief Executive Officer, New Hampshire Yankee Division, Public Service Company of New Hampshire from Gordon Edison, Senior Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, with enclosures: 1) Amendment No. 11 to License No. NPF-86, 2) Safety Evaluation, 3) Order, dated May 29, 1992. (Available in the Public Document Room, Accession No. 9206050230).

b) SECY-92-156A, Subject: Seabrook Station - Status of Acquisition by Northeast Utilities, May 15, 1992. (Available in the Public Document Room, Accession No. 9205210261).

c) Letter to U.S. Nuclear Regulatory Commission from Ted C. Feigenbaum, President and Chief Executive Officer, New Hampshire Yankee, Subject: FERC Order on Rehearing, Opinion No. 364-A, supplementing November 13, 1990 application, dated January 30, 1992. (Available in the Public Document Room, Accession No. 9202040342).

d) Letter to U.S. Nuclear Regulatory Commission from Ted C. Feigenbaum, President and Chief Executive Officer, New Hampshire Yankee, Subject: FERC Opinion and Order Affirming In Part, Modifying in Part and Reversing In Part Initial Decision and Conditionally Approving Disposition of Facilities, supplementing November 13, 1990

application, dated August 28, 1991. (Available in the Public Document Room, Accession No. 9109100332).

e) Letter to U.S. Nuclear Regulatory Commission from Ted C. Feigenbaum, President and Chief Executive Officer, New Hampshire Yankee, Subject: FERC Initial Decision and SEC Memorandum Opinion and Order Related to Joint Plan and Operating License Amendment Application, supplementing November 13, 1990 application, dated January 14, 1991. (Available in the Public Document Room, Accession No. 9101180181).

f) Letter to U.S. Nuclear Regulatory Commission from Ted C. Feigenbaum, President and Chief Executive Officer, New Hampshire Yankee, Subject: Application to Amend Facility Operating No. NPF-86 to Authorize North Atlantic Energy Corporation as a Licensee to Acquire and Possess the Public Service Company of New Hampshire Ownership Interest in Seabrook, dated November 13, 1990. (Available in the Public Document Room, Accession No. 9011160071).

2) Regarding Seabrook Station and EUA Power Corporation:

a) Letter to Mr. Ted C. Feigenbaum, Senior Vice President and Chief Nuclear Officer, North Atlantic Energy Service Corporation from Albert W. De Agazio, Senior Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Subject: Order Modifying Order Approving Transfer of License: Transfer of Control of Great Bay Power Corporation Interest, with enclosed Order For Modification of Order Approving Transfer of License, August 30, 1994. (Available in the Public Document Room, Accession No. 9409060156).

b) Letter to U.S. Nuclear Regulatory Commission from John A. Ritsher, Ropes & Gray, Re: Seabrook Nuclear Power Station, Docket No. 50-443, dated August 17, 1994. (Available in the Public Document Room, Accession No. 9408230062).

c) Letter to Mr. Ted C. Feigenbaum, Senior Vice President and Chief Nuclear Officer, North Atlantic Energy Service Corporation from Albert W. De Agazio, Senior Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Subject: Order Modifying Order Approving Transfer of License: Transfer of Control of Great Bay Power Corporation Interest, with enclosed Order For Modification of Order Approving Transfer of License, June 30, 1994. (Available in the Public Document Room, Accession No. 9407080080)

d) Letter to U.S. Nuclear Regulatory Commission from Paul R. Noe, Ropes & Gray, Re: Seabrook Nuclear Power Station, Docket No. 50-443, dated June 24, 1994. (Available in the Public Document Room, Accession No. 9406290213).

e) Letter to U.S. Nuclear Regulatory Commission from John A. Ritsher, Esq., Ropes & Gray, for North Atlantic Energy Service Corp., Subject: Great Bay Power

Corporation (formerly EUA Power Corporation) Plan of Reorganization: Second Supplemental Status Report, dated April 14, 1994. (Available in the Public Document Room, Accession No. 9404200351).

f) Letter to Ted C. Feigenbaum, Senior Vice President and Chief Nuclear Officer, North Atlantic Energy Service Corporation from Albert W. De Agazio, Senior Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Subject: Order Modifying Order Approving Transfer of License: Transfer of Control of Great Bay Power Corporation Interest, with enclosed Order for Modification of Order Approving Transfer of License, dated February 15, 1994. (Available in the Public Document Room, Accession No. 9403020026).

g) Letter to U.S. Nuclear Regulatory Commission from John A. Ritscher, Esq., Ropes & Gray, for North Atlantic Energy Service Corp. and Mark N., Polebaum, Esq., Hale and Dorr, Official Bondholders' Committee of Great Bay Power Corporation, Re: Seabrook Nuclear Power Station, Docket No. 50-443, "Application for Extension of the Commission's Order, dated August 16, 1993," dated February 3, 1994. (Available in the Public Document Room, Accession No. 9402100040).

h) Letter to Ted C. Feigenbaum, Senior Vice President and Chief Nuclear Officer, North Atlantic Energy Service Corporation from Albert W. De Agazio, Senior Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Subject: Amendment No. 23 to Facility Operating License NPF-86: Transfer of Control of EUA Power Corporation's Interest in the License, with copy of the related Safety Evaluation enclosed, date August 16, 1993. (Available in the Public Document Room, Accession No. 9309020332).

i) Letter to U.S. Nuclear Regulatory Commission from John A. Ritscher, Re: Docket No. 50-443: Seabrook Station, Unit No. 1, requesting Commission Consent to Indirect Transfer of Control of EUA Power Corporation's Interest in the Operating License and for a License Amendment to Reflect the Related Change in the Licensee, dated May 14, 1993. (Available in the Public Document Room, Accession No. 9305190030).

3) Regarding El Paso Electric Company:

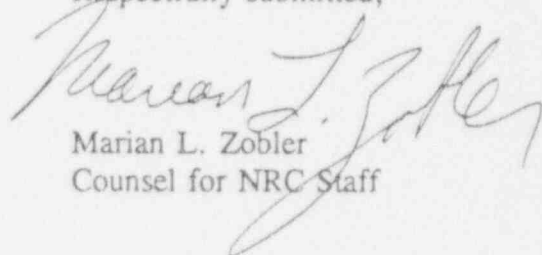
a) Letter to U.S. Nuclear Regulatory Commission from William F. Conway, Executive Vice President, Nuclear Arizona Public Service Company and Eduardo A. Rodriguez, Senior Vice President and General Counsel, El Paso Electric Company, Subject: Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2, and 3, Docket Nos. STN 50-528/529/530, Request for NRC Consent to the Indirect Transfer of Control of El Paso Electric Company's Interest in Operating License No.s NPF-41, NPF-51, and NPF-74 and for Amendments to Operating License No.s NPF-51 and NPF-74 to Delete Provisions for El Paso Electric Company's Sale-Leaseback Arrangements, April 8, 1994 (Available in the Public Document Room, Accession No. 9404140222).

b) *Arizona Public Service Co.; Consideration of Transfer of Control of Ownership of Licensee and Opportunity for Public Comment on Antitrust Issues*, 59 Fed. Reg. 11813 (March 14, 1994).

c) *Arizona Public Service Company, et al., Docket Nos STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, Maricopa County, Arizona*, 59 Fed. Reg. 10001 (March 2, 1994).

d) Letter to U.S. Nuclear Regulatory Commission from William F. Conway, Executive Vice President, Nuclear Arizona Public Service Company and Eduardo A. Rodriguez, Senior Vice President and General Counsel, El Paso Electric Company, Subject: Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2, and 3, Docket Nos. STN 50-528/529/530, Request for NRC Consent to the Indirect Transfer of Control of El Paso Electric Company's Interest in Operating License Nos. NPF-41, NPF-51, and NPF-74 and for Amendments to Operating License Nos. NPF-51 and NPF-74 to Delete Provisions for El Paso Electric Company's Sale-Leaseback Arrangements, January 13, 1994. (Available in the Public Document Room, Accession No. 9401240125).

Respectfully submitted,



Marian L. Zobler
Counsel for NRC Staff

Dated at Rockville, Maryland
this 30th day of September, 1994.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD OCT -3 P3:41

In the Matter of)

GULF STATES UTILITIES COMPANY)

(River Bend Station, Unit 1))

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Docket No. 50-458-OLA

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO LICENSEE'S REQUEST FOR THE PRODUCTION OF DOCUMENTS" in the above captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk through deposit in Nuclear Regulatory Commission's internal mail system, this 30th day of September, 1994:

B. Paul Cotter, Jr., Chairman*
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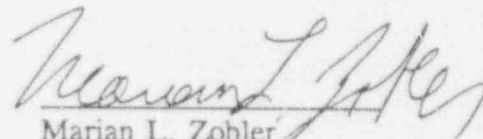
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