

APR 27 1983

Mr. R. A. Thomas
Manager Offshore Power Systems
P.O. Box 8000
8000 Arlington Expressway
Jacksonville, Florida 32211

In the Matter of
OFFSHORE POWER SYSTEMS
(Floating Nuclear Power Plants)
Docket No. STN 50-437

Dear Mr. Thomas:

Your letter of March 1, 1983 to Darrell G. Eisenhut, Director of Licensing, requesting confirmation of your interpretation of the applicability of Section 302(b) of the Nuclear Waste Policy Act of 1982, has been referred to this office for reply.

It should be noted that Generic Letter No. 83-07, "Nuclear Waste Policy Act of 1982," which appears to have prompted your inquiry, states that its purpose was to ensure awareness of the provisions of that Act, whose mandate applies to all facilities licensed under Sections 103 and 104 of the Atomic Energy Act of 1954. Offshore Power Systems' Manufacturing License ML-1 was issued December 17, 1982 pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, and 10 C.F.R. Part 50, Appendix M.

However, your observations regarding the present inapplicability of the contractual requirements of Section 302(b) of the Nuclear Waste Policy Act of 1982 to Offshore Power Systems, as holder of Manufacturing License ML-1, are correct. It is apparent that the manufacturing license, standing alone, does not authorize Offshore Power Systems to generate or hold title to high-level radioactive waste or spent fuel, or to use the utilization facilities to be manufactured pursuant to that license. Indeed, a construction permit and operating license for each such facility must be applied for pursuant to Section 103 of the Atomic Energy Act, thus triggering the requirement of the Nuclear Waste Policy Act that such applicant possess (or negotiate for) a nuclear waste disposal contract prior to the generation of such waste.

Review of the pertinent portions of the manufacturing license does not disclose the future relationship(s) which may exist between Offshore Power Systems and holders of construction permits or operating licenses for the floating nuclear plants manufactured thereunder, so that the future

contractual rights or interests in spent fuel to be generated by such plants are presently undetermined. Conceivably, such future contractual agreements could impose duties or obligations upon Offshore Power Systems which necessarily cannot be determined at this time.

Sincerely,

Original signed by
Guy H. Cunningham, III

Guy H. Cunningham, III
Executive Legal Director

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