



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 31, 1995

Board Notification - 95-13

MEMORANDUM TO: Atomic Safety and Licensing Board and All Parties

FROM: William D. Beckner, Director *W.D. Beckner*
Project Directorate IV-1
Division of Reactor Projects III/IV
Office of Nuclear Reactor Regulation

SUBJECT: NEW INFORMATION POTENTIALLY RELEVANT AND MATERIAL TO THE
LICENSING BOARD PROCEEDINGS IN THE MATTERS OF GULF STATES
UTILITIES COMPANY, ET AL. (RIVER BEND STATION, UNIT 1)
DOCKET NO. 50-458-OLA, (ASLBP NO. 93-680-04-OLA)

On August 4, 1995, Mr. James D. Pembroke, attorney for Cajun Electric Power Cooperative, Inc., filed petitions with the United States Court of Appeals for the District of Columbia Circuit for review of orders issued by the Nuclear Regulatory Commission related to Amendments No. 78 and No. 79 to Facility Operating License NFP-47 dated June 8, 1995. Also on August 4, 1995,* Mr. Zachary D. Wilson, Attorney for Cities of Benton, North Little Rock, Osceola, Prescott, Arkansas, the Conway Corporation, West Memphis Utilities Commission, and the Farmers Electric Cooperative Corporation, filed a petition with the United States Court of Appeals for the District of Columbia Circuit for review of the Reevaluation and Affirmation of Finding of No Significant Antitrust Changes issued by the Nuclear Regulatory Commission and dated May 30, 1995. On August 9, 1995, the United States Court of Appeals for the District of Columbia Circuit issued the order on its own motion consolidating the cases brought by Cajun and Cities.

By letter dated August 21, 1995, to Mr. John R. McGaha of Entergy Operations, Inc., Mr. L. J. Callan informed Entergy Operations, Inc. of the results of the Systematic Assessment of Licensee Performance for the period January 30, 1994, through July 29, 1995.

This information is potentially relevant and material to the issue in controversy in the ASLB proceeding (ASLBP No. 93-680-04-OLA).

Docket No. 50-458

- Attachments:
1. August 4, 1995, Petition of Cajun Electric Power Cooperative for review of the NRC order relating to Amendment No. 78
 2. August 4, 1995, Petition of Cajun Electric Power Cooperative for review of the NRC order relating to Amendment No. 79

CONTACT: David L. Wigginton
415-1301

9508310126

NRC FILE CENTER COPY

Updated on 9/12/95
N995

Per 9/12/95 telcom w/S. Friday

- 3. August 4, 1995* Petition of Cities, et al.
- 4. United States Court of Appeals Order, dated August 9, 1995, consolidating the cases brought by Cajun and Cities
- 5. August 21, 1995 Letter from L. J. Callan

*Dating error. Correct date is 1995, but the letter shows 1994.

cc w/atts: See attached list

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Docket No. 50-458

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*See previous concurrence

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River Bend Station

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IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Cajun Electric Power Cooperative, Inc.,)
)
 Petitioner,)
)
 v.) No. _____
)
 Nuclear Regulatory Commission,)
)
 Respondent.)

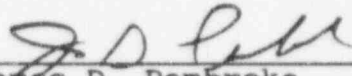
PETITION FOR REVIEW

Pursuant to § 189 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2239(b) (1988), and Rule 15 of the Federal Rules of Appellate Procedure, Cajun Electric Power Cooperative, Inc., by its counsel, hereby petitions this Court for review of the following order issued by the Nuclear Regulatory Commission:

Gulf States Utilities Company and Cajun Electric Power Cooperative, "Amendment No. 78 to Facility Operating License," and supporting Findings and Evaluations, License No. NFP-47 (TAC No. M91838), Docket No. 50-458, dated June 8, 1995.

Dated: August 4, 1995

Respectfully submitted,

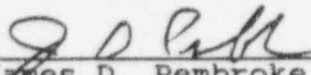


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CERTIFICATE OF SERVICE

I, James D. Pembroke, hereby certify that I have this 4th day of August 1995, served the foregoing document upon each person designated on the attached service list by first class mail, postage prepaid.


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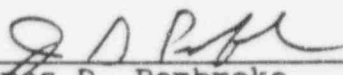
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I, James D. Pembroke, hereby certify that I have this 4th day of August, 1995, served the foregoing document upon each person designated on the attached service list by first class mail, postage prepaid.


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APPENDIX D

TO FACILITY OPERATING LICENSE NO. NPF-47

RIVER BEND STATION

UNIT 1

ENTERGY OPERATIONS, INC.

DOCKET NO. 50-458

ENVIRONMENTAL PROTECTION PLAN

(NONRADIOLOGICAL)

- C-3 "The proposed license amendment cannot be approved without Cajun's consent."

This particular contention is not one involving safety but one involving the contractual relationship between GSU and Cajun. Thus, it is not a concern that the NRC staff needs to address in evaluating the effect of the proposed amendment on public health and safety.

- C-4 "The proposed license amendments will adversely affect Cajun's rights regarding the operation of River Bend."

With this contention, Cajun listed six "additional detrimental impacts". They are: (1) lack of privity with the operator; (2) right of access to audits and key reporting data; (3) approval of budgets, capital projects, and major undertakings; (4) scheduling of power; (5) administrative, general, and other costs; and (6) the assertion that the proposed arrangement limits liability to actions that constitute gross negligence or willful misconduct. The rights that Cajun alleges will be adversely affected by EOI operation are a combination of economic and contractual issues not related to any health and safety issues. Thus, the staff need not consider these concerns in evaluating the effect of the proposed amendment on public health and safety.

- C-5 "The proposed license amendments cannot be approved without certain license conditions."

Cajun offers no argument to show that granting any of its proposed license conditions will affect the safe operation of the plant. Rather the proposed license conditions appear to address economic and contractual concerns of Cajun.

- C-6 "The proposed ownership amendment should be approved only with conditions adequate to remedy its adverse impact on the Cajun/GSU Interconnection Agreement."

The contention is directed toward the transfer of ownership of GSU rather than the change in the operating company for River Bend, which is the subject of this amendment.

- C-7 "The River Bend license conditions must be enforced."

Cajun specifically identifies License Condition 2.C.(3), Appendix C, Condition 10, which requires GSU to transmit power over its system on behalf of utilities engaging in bulk power supply in GSU's service area, and Condition 12, addressing GSU's obligation to sell power for resale. This contention does not seem to be related to the proposed amendment, but rather requests enforcement of two existing antitrust

license conditions. An allegation of nonconformance with license conditions is properly raised in a petition pursuant to 10 CFR 2.206.

In summary, the contentions do not address the safe operation of the plant or public health and safety. Thus, there is no need for the staff to discuss Cajun's concerns as set forth in its contentions in the staff's review of the application.

4.0 FINAL NO SIGNIFICANT HAZARDS CONSIDERATION

GSU's request for this amendment to the operating license for the River Bend, including a proposed determination by the staff of no significant hazards consideration, was noticed in the Federal Register on July 7, 1993 (58 FR 36435). Section 50.92(c) of 10 CFR includes three standards used by the NRC staff to arrive at a determination that a request for amendment involves no significant hazards considerations. If operation of a facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety, then the standards for a finding of no significant hazards have been met.

GSU addressed the above three standards in the amendment application and determined that the proposed changes do not involve a significant hazards consideration. In regard to the three standards, GSU provided the following analysis.

- (1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

As a result of the proposed license amendment, there will be no physical change to the River Bend facility, and all Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits specified in the Technical Specifications will remain unchanged. Also, the River Bend Quality Assurance Program, Emergency Plan, Security Plan, and Operator Training and Requalification Program will be unaffected.

- (2) The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will have no effect on the physical configuration of River Bend or the manner in which it will operate. The plant design and design basis will remain the same. The current plant safety analyses will therefore remain complete and accurate in addressing the design basis events and in analyzing plant response and consequences. The Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits specified in the Technical

Specifications for River Bend are not affected by the proposed license amendment. As such, the plant conditions for which the design basis accident analyses have been performed will remain valid. Therefore, the proposed license amendment cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

- (3) The proposed amendment will not involve a significant reduction in a margin of safety.

Plant safety margins are established through Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits specified in the Technical Specifications. Since there will be no change to the physical design or operation of the plant, there will be no change to any of these margins. Thus, the proposed license amendment will not involve a significant reduction in any margin of safety.

Comments

As stated above, by letter dated August 6, 1993, as supplemented by letters dated August 17, 1993, and August 31, 1993, Cajun filed comments, a petition to intervene, and a request for a hearing and contentions in response to the July 7, 1993, notices of consideration and proposed no significant hazards determinations. Four comments on the proposed no significant hazards consideration determination were submitted in the August 6, 1993, letter and the August 17, 1993 letter. In response to an August 26, 1993, notice in the Federal Register that an Atomic Safety and Licensing Board (ASLB) had been established for this proposed amendment, Cajun submitted the August 31, 1993, letter, which contained the seven contentions addressed above. To date, the ASLB has not ruled on whether Cajun has standing or whether any of the contentions are admissible.

The comments and the staff's evaluation of them regarding applicability to safety and this amendment are presented below:

Comment 1

Cajun raised questions concerning GSU's ability to fund EOI's operation of River Bend, the possibility of GSU's having to declare bankruptcy if a ruling adverse to GSU occurs in pending litigation between GSU and Cajun and the effect of a GSU bankruptcy on GSU's ability to fund River Bend's operation, and the possibility that River Bend may have to be shut down due to insufficient operating funds. Based on these concerns, Cajun stated that the criteria for a finding of no significant hazards determination have not been met.

These issues are addressed in the responses to Contentions 1 and 2 above.

Comment 2

The proposed amendment transferring operational responsibility to EOI cannot be approved without Cajun's consent.

This comment is addressed in the response to Contention 3 above.

Comment 3

The proposed amendment transferring operational authority to EOI will adversely affect Cajun's rights regarding the operation of River Bend.

This comment is addressed in the response to Contention 4 above.

Comment 4

The antitrust license conditions contained in 2.C.(3), Appendix C, Conditions 10 and 12 of the River Bend license must be enforced.

This comment is addressed in the response to Contention 7.

The NRC has considered Cajun's comments and has concluded that there is nothing in them that would cause the staff to change the proposed no significant hazards consideration determination.

Having considered Cajun's comments, the staff continues to agree with Gulf States Utilities' analysis regarding the no significant hazards consideration determination, and therefore has made a final determination that the proposed amendment does not involve a significant hazards consideration.

5.0 STATE CONSULTATION

In accordance with the Commission's regulations, the Louisiana State official was notified of the proposed issuance of the amendment. The State official had no comments.

6.0 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 October 29, 1993 (58 FR 58201). 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.

7.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributor: Edward T. Baker, PDIV-2/NRR

Date: June 8, 1995

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 95-1399

September Term, 1994

Cajun Electric Power Cooperative, Inc., Petitioner

v.

Nuclear Regulatory Commission, Respondent

95-1400

Cajun Electric Power Cooperative, Inc., Petitioner

v.

Nuclear Regulatory Commission, Respondent

95-1402

Cities of Benton, North Little Rock, Osceola,
Prescott, Arkansas, The Conway Corporation, West
Memphis Utilities Commission and The Farmers Electric
Cooperative Corporation, Petitioners

v.

Nuclear Regulatory Commission, Respondent

United States Court of Appeals
For the District of Columbia Circuit

FILED AUG 09 1995

ORDER

It is ORDERED, on the Court's own motion that the above captioned cases are hereby consolidated. Case No. 95-1399 is deemed the lead docket and all future filings shall bear its case number and caption.

FOR THE COURT:

Mark J. Langer, Clerk

BY: *Stephen Contee*

Stephen Contee
Deputy Clerk

ATTACHMENT 4



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 8, 1995

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SUBJECT: RIVER BEND STATION, UNIT 1 - AMENDMENT NO. 78 TO FACILITY OPERATING
LICENSE NO. NPF-47 (TAC NO. M9183B)

Dear Mr. McGaha:

The Nuclear Regulatory Commission has issued the enclosed Amendment No. 78 to facility Operating License No. NPF-47 for the River Bend Station, Unit 1. The amendment consists of changes to the license in response to your application dated January 13, 1993, as supplemented by letter dated October 18, 1993.

The amendment revises the River Bend Station, Unit 1 operating license to reflect a change in ownership of Gulf States Utilities (GSU). GSU, which owns a 70 percent undivided interest in the River Bend Station, will become a wholly-owned subsidiary company of Entergy Corporation.

This amendment was originally issued as License Amendment No. 69 on December 16, 1993, subject to NRC approval granted by Order Approving Transfer of License also dated December 16, 1993. By order dated March 14, 1995, the Court of Appeals for the D.C. Circuit ordered that the two orders for 1) the merger of Gulf States Utilities and Entergy and 2) the operation of River Bend Station by Entergy Operations, Inc. (EOI) be vacated and the case remanded to the NRC. Pursuant to the remand, the NRC reexamined the issue of whether the merger of GSU with Entergy or operation by EOI would create or maintain a situation inconsistent with the antitrust laws. The NRC published its finding of no significant antitrust change and performed a reevaluation after receiving two requests to reevaluate its finding. As explained in the enclosed supplemental safety evaluation, the NRC's reevaluation in response to the two requests resulted in the NRC's reaffirming its earlier finding of no significant antitrust change.

The safety evaluation enclosed is the same as issued for License Amendment No. 69 even though some matters, unrelated to the remand, have since been appropriately dispositioned by the licensees. The supplemental safety evaluation, also enclosed, updates the safety evaluation on those matters remanded by the D.C. Circuit Court. Taken together, the safety evaluation and supplemental safety evaluation provide the NRC's basis for reissuance of the license amendment. The orders are identical to those previously issued except that the language in the final sentence of the original order relating to the completion of the merger has been removed, as the merger has already taken place. The order enclosed is effective immediately.

JUN 12 1995

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Mr. John R. McGaha

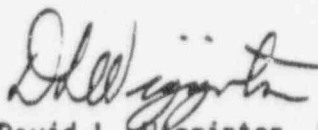
- 2 -

The transfer of any right under the operating license is subject to NRC approval pursuant to 10 CFR 50.80(a). Such approval is given in the enclosed Order Approving Transfer of License, which is being forwarded to the Office of the Federal Register for publication.

In addition to the changes requested in your application, the amendment corrects an error the staff found during the review of the requested changes. At the time Amendment No. 1 was issued, Cajun Electric Power Cooperative was mistakenly not included as a licensee and the footnote stating GSU is authorized to act as agent for Cajun was also not included. A review of the docket failed to reveal a basis for removing this information from the license. Therefore, this amendment corrects that error.

A copy of our Safety Evaluation and Supplemental Safety Evaluation are also enclosed. Notice of Issuance will be included in the Commission's biweekly Federal Register notice.

Sincerely,



David L. Wigginton, Senior Project Manager
Project Directorate IV-1
Division of Reactor Projects III/IV
Office of Nuclear Reactor Regulation

Docket No. 50-458

Enclosures: 1. Amendment No. 78 to NPF-47
2. Safety Evaluation
3. Supplemental Safety Evaluation
4. Order

cc w/encls: See next page

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Entergy Operations, Inc.

River Bend Station

cc:

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

GULF STATES UTILITIES COMPANY

CAJUN ELECTRIC POWER COOPERATIVE

DOCKET NO. 50-458

RIVER BEND STATION, UNIT 1

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 78
License No. NPF-47

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by Gulf States Utilities* (GSU) dated January 13, 1993, as supplemented by letter dated October 18, 1993, 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 I;
 - B. The facility will operate in conformity with the application, as amended, 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 license 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.
2. Accordingly, Facility Operating License No. NPF-47 is hereby amended to read as follows:

* Gulf States Utilities Company is authorized to act as agent for Cajun Electric Power Cooperative and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

** Pages 1, 6, and 7 are attached, for convenience, for the composite license to reflect these changes. Please remove pages 1 and 6 of the existing license and replace with the attached pages and add page 7.

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- (a) Add footnote ** on page 1 of the license to read:

"Gulf States Utilities Company, which owns a 70 percent undivided interest in River Bend, has merged with a wholly owned subsidiary of Entergy Corporation. Gulf States Utilities Company was the surviving company in the merger."

- (b) Paragraph 2.C.(16) shall be added as a new condition.

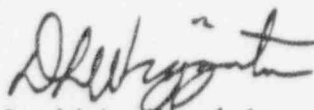
(16) Merger Related Reports

GSU shall inform the Director, NRR:

- (a) Sixty days prior to a transfer (excluding grants of security interests or liens) from GSU to Entergy or any other entity of facilities for the production, transmission or distribution of electric energy having a depreciated book value exceeding one percent (1%) of GSU's consolidated net utility plant, as recorded on GSU's books of account.
- (b) Of an award of damages in litigation initiated against GSU by Cajun Electric Power Cooperative regarding River Bend within 30 days of the award.
- (c) The last page of the license shall be marked "Revised: December 16, 1993."

3. This license amendment is effective as of its date of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION



David L. Wigginton, Senior Project Manager
Project Directorate IV-1
Division of Reactor Projects III/IV
Office of Nuclear Reactor Regulation

Attachment: Pages 1, 6, and 7 of Facility
Operating License No. NPF-47

Date of Issuance: June 8, 1995

ATTACHMENT TO LICENSE AMENDMENT NO. 76

FACILITY OPERATING LICENSE NO. NPF-47

DOCKET NO. 50-458

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

Remove Pages

Insert Pages

1
6
-

1
6
7



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON D C 20555-0001

GULF STATES UTILITIES COMPANY**
CAJUN ELECTRIC POWER COOPERATIVE
DOCKET NO. 50-458
RIVER BEND STATION, UNIT 1
FACILITY OPERATING LICENSE

License No. NPF-47

1. The Nuclear Regulatory Commission (the Commission or the NRC) has found that:
 - A. The application for license filed by Gulf States Utilities Company* (GSU), acting on behalf of itself and Cajun Electric Power Cooperative, 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 River Bend Station, Unit 1 (the facility) has been substantially completed in conformity with Construction Permit No. CPPR-145 and the application, as amended, the provisions of the Act and the 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;
 - 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;
 - E. Gulf States Utilities Company 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 I;
 - F. Gulf States Utilities Company and Cajun Electric Power Cooperative have 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;

* Gulf States Utilities Company is authorized to act as agent for Cajun Electric Power Cooperative and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

** Gulf States Utilities Company, which owns a 70 percent undivided interest in River Bend, has merged with a wholly owned subsidiary of Entergy Corporation. Gulf States Utilities Company was the surviving company in the merger.

(16) Merger Related Reports

GSU shall inform the Director, NRR:

- a. Sixty days prior to a transfer (excluding grants of security interests or liens) from GSU to Entergy or any other entity of facilities for the production, transmission or distribution of electric energy having a depreciated book value exceeding one percent (1%) of GSU's consolidated net utility plant, as recorded on GSU's books of account.
 - b. Of an award of damages in litigation initiated against GSU by Cajun Electric Power Cooperative regarding River Bend within 30 days of the award.
- D. GSU 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: "River Bend Physical Security Plan," with revisions submitted through November 6, 1987; "River Bend Station Guard Training and Qualification Plan," with revisions submitted through December 16, 1986; and "River Bend Station Safeguards Contingency Plan," with revisions submitted through January 27, 1987. Changes made in accordance with 10 CFR 73.55 shall be implemented in accordance with the schedule set forth therein.
- E. Except as otherwise provided in the Technical Specifications or Environmental Protection Plan, GSU 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 followup within thirty days in accordance with the procedures described in 10 CFR 50.73(b), (c), and (e).
- F. The licensees 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.

- G. This license is effective as of the date of issuance and shall expire at midnight on August 29, 2025.

FOR THE NUCLEAR REGULATORY COMMISSION

Original Signed By

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosures:

1. Attachments 1-5
2. Appendix A - Technical Specifications (NUREG-1172)
3. Appendix B - Environmental Protection Plan
4. Appendix C - Antitrust Conditions

Date of Issuance: November 20, 1985

Revised: December 16, 1993



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
RELATED TO AMENDMENT NO. 78 TO FACILITY OPERATING LICENSE NO. NPF-47

GULF STATES UTILITIES

RIVER BEND STATION, UNIT 1

DOCKET NO. 50-458

1.0 INTRODUCTION

By letter dated January 13, 1993, Gulf States Utilities Company (GSU) submitted a request for an amendment to the operating license for River Bend Station, Unit 1 (River Bend). The proposed amendment reflects a transfer of ownership of GSU to become a wholly-owned subsidiary of Entergy Corporation (Entergy) as a result of a merger between GSU and Entergy. A second license amendment has been proposed to accomplish the transfer of operating authority from GSU to another Entergy subsidiary, Entergy Operations, Inc. (EOI).

GSU is currently a publicly traded company, the common stock of which is widely held. Following consummation of the merger, Entergy will be the sole holder of GSU's common stock, with GSU's current common shareholders receiving cash or common stock of the new holding company. GSU will retain its 70 percent ownership in River Bend and Cajun Electric Power Cooperative Inc. (Cajun) will retain its 30 percent ownership share.

2.0 EVALUATION

The proposed license amendment would add a footnote to paragraph I.A of the operating license to reflect the merger of GSU and a subsidiary of Entergy. The amendment does not involve a request for any change to the design or operation of the facility, nor to the existing Technical Specifications. The requested license amendment will introduce no change in the numbers, qualifications, or organizational affiliation of personnel who operate River Bend.

Under the terms of the proposed merger, GSU would continue to operate as a utility, but by transfer of its common stock to Entergy, GSU will become a wholly-owned subsidiary of Entergy. Ownership of River Bend will remain unchanged, with GSU retaining its 70 percent undivided ownership interest in the facility and Cajun retaining its 30 percent undivided ownership interest.

Financial Qualifications Review

Pursuant to 10 CFR 50.80(a), "No license for a production or utilization facility, or any right thereunder, shall be transferred, assigned, or in any manner disposed of either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless

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the Commission shall give its consent in writing." Pursuant to 10 CFR 50.80(b), an application for transfer of a license should include, among other things, information on the financial qualifications of the transferee.

The transferee, Entergy, is a public utility holding company with four operating utility subsidiaries: Arkansas Power and Light Company, Louisiana Power and Light Company, Mississippi Power and Light Company, and New Orleans Public Service, Inc. Through these subsidiaries, Entergy generates, transmits, and distributes electricity for wholesale and retail sale to more than 1.7 million customers in parts of Arkansas, Louisiana, Mississippi, and Missouri. GSU, the transferor, generates, transmits, and distributes electricity for wholesale and retail customers. Combining GSU's service territory with Entergy's would create a large contiguous area with opportunities for bulk power transfers and a potential to reduce overhead and increase efficiency within the combined system.

Entergy's Financial Qualifications

Entergy is in stable but average financial condition compared to other electric utilities. In 1992, Entergy realized electric operating revenues of \$4.04 billion, an increase from \$3.97 billion in 1991 and \$3.89 billion in 1990. After expenses, Entergy realized net income of \$438 million in 1992, a decrease from \$484 million in 1991 and \$478 million in 1990. Entergy's "times interest earned" ratio has remained steady at approximately 2.4 during the past three years. This ratio is used by financial analysts to evaluate the ability of a company to pay interest on long-term debt. Any ratio above 1.5 is generally considered acceptable. Entergy's return on common equity was 9.8 percent in 1993, down from 10.9 percent in 1991 and 11.6 percent in 1990. This is below the average return for most financially healthy utilities, but is not seriously deficient.

Since 1990, Entergy has improved its capital structure. In 1992, its capital structure consisted of 41.5 percent common equity and 51.7 percent long-term debt. This improved from 38 percent and 56 percent for equity and long-term debt, respectively, in 1990. Although Entergy's proportion of equity is relatively weak, it is adequate and does not indicate excessive leverage (i.e., reliance on debt).

Moody's has rated Entergy's long-term debt through its subsidiaries: Arkansas Power and Light Company - Baa2; Mississippi Power and Light Company - Baa3; and Louisiana Power and Light Company - Ba3. These ratings are in the lowest category of investment-grade except for Louisiana Power and Light, which is below investment grade but is not apparently adversely affecting Entergy's overall financial health.

For cash flow, Entergy generated \$842 million in 1992, \$856 million in 1991, and \$870 million in 1990. Although this indicates a downward trend in cash flow, Entergy continues to generate substantial funds to pay nuclear-related expenses beyond those currently covered and after cash payments of up to \$250 million related to the merger are made.

In summary, Entergy has average financial health. This conclusion is consistent with The Value Line Investment Survey (July 16, 1993, p.714) that rated Entergy average for financial safety.

GSU's Financial Qualifications

GSU's financial situation remains below average compared to other utilities, although it has improved over the last three years. GSU realized electric operating revenues of \$1.69 billion in 1992, \$1.62 billion in 1991, and \$1.60 billion in 1990. GSU's net income rose to \$128 million in 1992 from \$102 million in 1991 and a \$44 million loss in 1990.

GSU's "times interest earned" ratio was 1.7 in 1992, which exceeds the generally minimally acceptable level of 1.5. GSU's return on common equity was 4.0 percent in 1992, 1.9 percent in 1991, and -2.3 percent in 1990. These returns are well below the utility average and have probably caused GSU difficulty in attracting equity capital.

Since 1990, GSU has maintained an essentially constant position in equity as 40.3 percent of total capital. Long-term debt has increased as a percentage of total capital from 45.8 percent in 1990, to 47.9 percent in 1991, to 51.7 percent in 1992. Although GSU relies more than the electric utility average on long-term debt with its corresponding interest obligations, these percentages do not indicate excessive leverage.

GSU's latest long-term debt rating from Moody's Public Utility News Reports (July 6, 1993) was Baa2. This is the middle of Moody's lowest investment-grade rating category and remains satisfactory.

For cash flow, GSU generated \$158.5 million in 1992, \$257.8 million in 1991, and \$275.6 million in 1990. Although this represents a decline over the 3-year period, GSU has adequate cash flow to pay nuclear-related expenses beyond those currently covered.

A major contingent expense could result from litigation initiated against GSU by Cajun, a 30 percent owner of River Bend. Cajun is seeking recovery of \$1.6 billion in River Bend investment costs from GSU. If a court finds GSU liable for this amount, or a substantial portion of it, GSU would have insufficient assets to pay the judgement. GSU then would most likely be forced to seek bankruptcy protection.

Filing for bankruptcy protection is a potentially serious development that could adversely affect GSU's financial qualifications to own River Bend. However, a judgement in favor of Cajun could occur whether or not the proposed merger is consummated. Under the terms of the merger, GSU would continue to own its 70 percent share of River Bend and would also continue to operate as an electric utility. Although Entergy, as parent to GSU, would lose much of the value of its investment in GSU if Cajun's suit were successful, it is not clear that other Entergy assets would become vulnerable in a GSU bankruptcy proceeding. Although Entergy would be hurt financially, it should be able to survive and adequately support the safety of its reactor operations (i.e.,

Entergy would lose its maximum \$250 million cash investment in GSU and its stockholders would suffer equity dilution). For these reasons, the staff does not consider the potential for a large judgement against GSU as a result of the Cajun litigation to be a substantial factor in the financial qualifications review of the merger application.

Conclusion

Both GSU and Entergy are financially qualified to own or operate the River Bend unit. As Entergy has indicated, GSU will remain a broad-based electric utility with generation, transmission, and distribution capabilities. However, because the staff finding is based on GSU retaining its asset base, this conclusion would be subject to re-review if either GSU's financial situation changes significantly as a result of the Cajun litigation or if Entergy transfers significant assets from GSU to itself or other subsidiaries. The staff, therefore, has imposed a license condition which requires GSU to inform the NRC if adverse results occur from either situation.

License Condition

A new license condition (2.C.16) relating to reporting changes in the financial qualifications of GSU results from an NRC staff request. A commitment from the licensee was provided in a letter dated October 18, 1993. The new license condition states:

(c) Merger Related Reports

GSU shall inform the Director, NRR:

- (a) Sixty days prior to a transfer (excluding grants of security interest or liens) from GSU to Entergy or any other entity of facilities for the production, transmission or distribution of electric energy having a depreciated book value exceeding one percent (1%) of GSU's consolidated net utility plant, as recorded on GSU's books of account, and
- (b) Of an award of damages in litigation initiated against GSU by Cajun Electric Power Cooperative regarding River Bend within 30 days of the award.

3.0 HEARING CONTENTIONS

On July 7, 1993, the NRC noticed GSU's request for this amendment in the Federal Register (58 FR 36435) and offered an opportunity for interested persons to file petitions to intervene and requests for a hearing. On August 6, 1993, Cajun filed a petition to intervene and request for a hearing. Cajun supplemented its petition on August 17, 1993. On August 31, 1993, in response to an August 26, 1993, notice in the Federal Register that an Atomic Safety and Licensing Board (ASLB) had been established for this proposed

amendment, Cajun filed seven contentions, which are addressed below. A prehearing conference was held on September 15, 1993 to hear arguments on the petition to intervene and responsive pleadings.

By a filing before the Licensing Board on October 12, 1993, the staff addressed the contentions regarding their admissibility for a hearing. Cajun's contentions and the staff's consideration of their applicability to safety are presented below:

- C-1 "The proposed amendments fail to reflect the public interest and interests of co-owners, wholesale customers and customers that may be affected by the outcome of the Cajun and Texas litigation."

Cajun failed to state in its basis what it perceives to be the relationship between the proposed amendment and the litigation that it says may bankrupt GSU. While it states that there may be an "adverse financial impact" from the proposed merger and the litigation, it does not indicate how this alleged impact relates to the safe operation of River Bend. Based on the information provided by Cajun, it appears that the effect of the outcome of the cited litigation would be the same without regard to who owns GSU and who operates River Bend.

- C-2 "The proposed amendments may result in a significant reduction in the margin of safety at River Bend."

Cajun's discussion in support of this contention does not address margin of safety, but instead discusses funding and the possibility that River Bend might have to shut down because of the unavailability of funds to operate the plant. Cajun's arguments notwithstanding, established safety margins are contained in the plant technical specifications through the limiting conditions for operation, limiting safety system settings, and safety limits. There will be no change to the technical specifications for River Bend as a result of granting the amendment nor will there be any change to the physical design of the plant. Cajun itself has stated that the merger with Entergy and EOI's operation of the plant will enhance safety.

- C-3 "The proposed license amendment cannot be approved without Cajun's consent."

This particular contention is not one involving safety but one involving the contractual relationship between GSU and Cajun. Thus, it is not a concern that the NRC staff needs to address in evaluating the effect of the proposed amendment on public health and safety.

- C-4 "The proposed license amendments will adversely affect Cajun's rights regarding the operation of River Bend."

With this contention, Cajun listed six "additional" detrimental impacts. They are: (1) lack of privity with the operator; (2) right of access to audits and key reporting data; (3) approval of budgets, capital projects, and major undertakings; (4) scheduling of power; (5) administrative, general, and other costs; and (6) the assertion that the proposed arrangement limits liability to actions that constitute gross negligence or willful misconduct. The rights that Cajun alleges will be adversely affected by EOI operation are a combination of economic and contractual issues not related to any health and safety issues. Thus, the staff need not consider these concerns in evaluating the effect of the proposed amendment on public health and safety.

- C-5 "The proposed license amendments cannot be approved without certain license conditions."

Cajun offers no argument to show that granting any of its proposed license conditions will affect the safe operation of the plant. Rather the proposed license conditions appear to address economic and contractual concerns of Cajun.

- C-6 "The proposed ownership amendment should be approved only with conditions adequate to remedy its adverse impact on the Cajun/GSU Interconnection Agreement."

This particular contention is not one involving safety but one involving the contractual relationship between GSU and Cajun. Thus, it is not a concern that the NRC staff needs to address in evaluating the effect of the proposed amendment on public health and safety.

- C-7 "The River Bend license conditions must be enforced."

Cajun specifically identifies License Condition 2.C.(3), Appendix C, Condition 10 which requires GSU to transmit power over its system on behalf of utilities engaging in bulk power supply in GSU's service area, and Condition 12 addressing GSU's obligation to sell power for resale. This contention does not seem to be related to the proposed amendments rather requests enforcement of two existing antitrust license conditions. An allegation of nonconformance with license conditions is properly raised in a petition pursuant to 10 CFR 2.206.

In summary, the contentions do not address the safe operation of the plant or public health and safety. Thus, there is no need for the staff to discuss Cajun's concerns as set forth in its contentions in the staff's review of the application.

4.0 FINAL NO SIGNIFICANT HAZARDS CONSIDERATION

The licensee's request for this amendment to the operating license for River Bend, including a proposed determination by the staff of no significant hazards consideration, was noticed in the Federal Register on July 7, 1993 (58 FR 36435). Section 50.92(c) of 10 CFR includes three standards used by the NRC staff to arrive at a determination that a request for amendment involves no significant hazards considerations. If operation of a facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety, then the standards for a finding of no significant hazards have been met.

GSU addressed the above three standards in the amendment application and determined that the proposed changes do not involve a significant hazards consideration. In regard to the three standards, GSU provided the following analysis.

- (1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

As a result of the proposed license amendment, there will be no physical change to the River Bend facility, and all Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the technical specifications will remain unchanged. Also, the River Bend Quality Assurance Program, Emergency Plan, Security Plan, and Operator Training and Requalification Program will be unaffected.

- (2) The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will have no effect on the physical configuration of River Bend or the manner in which it will operate. The plant design and design basis will remain the same. The current plant safety analyses will therefore remain complete and accurate in addressing the design basis events and in analyzing plant response and consequences. The Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the technical specifications for River Bend are not affected by the proposed license amendment. As such, the plant conditions for which the design basis accident analyses have been performed will remain

valid. Therefore, the proposed license amendment cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

- (3) The proposed amendment will not involve a significant reduction in a margin of safety.

Plant safety margins are established through Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the technical specifications. Since there will be no change to the physical design or operation of the plant, there will be no change to any of these margins. Thus, the proposed license amendment will not involve a significant reduction in any margin of safety.

By letter dated August 6, 1993, as supplemented by a letter dated August 17, 1993, Cajun filed four comments in response to the July 7, 1993, notices of consideration and proposed no significant hazards determinations. The comments and the staff's evaluation of them regarding applicability to safety and this amendment are presented below:

Comment 1

Cajun raised questions concerning GSU's ability to fund EOI's operation of River Bend, the possibility of GSU having to declare bankruptcy if a ruling adverse to GSU occurs in pending litigation between GSU and Cajun and its effect on GSU's ability to fund River Bend's operation, and the possibility that River Bend may have to be shutdown due to insufficient operating funds. Based on these concerns, Cajun stated that the criteria for a finding of no significant hazards determination have not been met.

These issues are addressed in the responses to contentions 1 and 2 above.

Comment 2

The proposed amendment transferring operational responsibility to EOI cannot be approved without Cajun's consent.

The transfer of operational responsibility is not the subject of this amendment.

Comment 3

The proposed amendment transferring operational authority to EOI will adversely affect Cajun's rights regarding the operation of River Bend.

The transfer of operational authority is not the subject of this amendment.

Comment 4

The antitrust license conditions contained in 2.C.(3), Appendix C, Conditions 10 and 12 of the River Bend license must be enforced.

This comment is addressed in the response to Contention 7.

In addition to the four comments, in the August 6, 1993, letter Cajun requested a hearing be conducted prior to a final no significant hazards consideration determination. With regard to that concern, 10 CFR 50.91 (a) (4) addresses staff actions in the event public comments or a request for a hearing are received. Specifically, it states, "Where the Commission makes a final determination that no significant hazards consideration is involved and that the amendment should be issued, the amendment will be effective upon issuance, even if adverse public comments have been received and even if an interested person meeting the provision called for in 2.714 of this chapter has filed a request for a hearing. The Commission need hold any required hearing only after it issues an amendment, unless it determines that a significant hazards consideration is involved in which case the Commission will provide an opportunity for a prior hearing."

The NRC has considered Cajun's comments and has concluded that there is nothing in them that would cause the staff to change the proposed no significant hazards consideration determination.

For these reasons, and those given by the licensee, the staff agrees with the licensee's determination, and therefore has made a final determination that the proposed amendment does not involve a significant hazards consideration.

4.0 ANTITRUST EVALUATION

Pursuant to Section 105c of the Atomic Energy Act of 1954, and the Commission's Rules and Regulations, the staff conducted a review to determine whether significant competitive changes have occurred in the licensee's activities since the previous antitrust operating license review.

Pursuant to procedures set forth by the Commission in delegating authority to the Director of the Office of Nuclear Reactor Regulation and the Director of the Office of Nuclear Material Safety and Safeguards, as appropriate, the Director of the Office of Nuclear Reactor Regulation has made a finding that as a result of the proposed merger, no significant antitrust changes have occurred since the operating license antitrust review of River Bend.

The Director's finding was published in the Federal Register on October 20, 1993, (58 FR 54175) and provided for requests for reevaluation of the finding by November 19, 1993. Requests to reevaluate the Director's finding, dated November 19, 1993, were received from counsel representing the City of Lafayette, Louisiana, Terrebonne Parish Consolidated Government, Louisiana Energy and Power Authority, and Cajun Electric Power Cooperative, Inc.

Reviews of post-operating license amendment applications involving changes in licensees have included an antitrust review by the staff and consultation with the Attorney General. The antitrust review by the staff focuses on significant changes in the licensee's activities since the most recent antitrust review of the facility in question. The staff applied the criteria established by the Commission in its Summer decision in reaching its No Significant Change Finding for River Bend.

The concerns raised by the City of Lafayette, Louisiana, Terrebonne Parish Consolidated Government, Louisiana Energy and Power Authority, and Cajun Electric Power Cooperative, Inc. in the Requests for Reevaluation were thoroughly considered by the staff in its initial evaluation of competitive changes resulting from the proposed merger between GSU and Entergy. The information provided by the City of Lafayette, Louisiana, Terrebonne Parish Consolidated Government, Louisiana Energy and Power Authority, and Cajun Electric Power Cooperative, Inc. does not identify any new competitive concerns or any data that were overlooked by the staff in its initial review of the proposed merger. Consequently, it is the determination of the staff that the criteria established by the Commission to substantiate a "significant change" have not been met.

The Commission's Rules and Regulations (2.101 (e) (3)) for reviewing antitrust issues prior to issuing an operating license provide for a thirty day period in which the Commission can review a reevaluation of a "significant change" determination. For antitrust reviews occurring after issuance of the operating license, it has been the staff's practice to provide a thirty day period for Commission review. However, in this particular case, the staff recommended the Commission inform the staff by December 17, 1993, whether they would exercise sua sponte review. This only provided a nine day review period in an attempt to meet GSU's request to complete the merger by the end of the calendar year. The Director has determined that he will not change his finding that no "significant change" has occurred. The Director's reevaluation was published in the Federal Register on December 13, 1993 (58 FR 65200) and became final NRC action on December 16, 1993, with the Commission's decision not to exercise sua sponte review.

5.0 STATE CONSULTATION

In accordance with the Commission's regulations, the Louisiana State official was notified of the proposed issuance of the amendment. The State official had no comments.

6.0 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 October 29, 1993 (58 FR 58202). 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.

7.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributor: Edward T. Baker, PDIV-2, NRR

Date: June 8, 1995



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555-0001

SUPPLEMENTAL SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO AMENDMENT NO. 78 TO FACILITY OPERATING LICENSE NO. NPF-47

ENERGY OPERATIONS, INC.

RIVER BEND STATION, UNIT 1

DOCKET NO. 50-458

1.0 INTRODUCTION

By application dated January 13, 1993, as supplemented by letter dated October 18, 1993, Gulf States Utilities (the licensee) requested an amendment to Facility Operating License No. NPF-47 for the River Bend Station, Unit 1 (River Bend). The proposed amendment reflects a transfer of ownership of Gulf States Utilities (GSU) to become a wholly-owned subsidiary of Entergy Corporation (Entergy) as a result of a merger between GSU and Entergy. A separate license amendment has been proposed to accomplish the transfer of operating authority from GSU to another Entergy subsidiary, Entergy Operations, Inc. (EOI).

On December 16, 1993, in License Amendment No. 69 and by Order Approving Transfer of License dated the same day, the NRC approved the licensee's request. By order dated March 14, 1995, the Court of Appeals for the D.C. Circuit ordered that the two NRC orders for 1) the merger of Gulf States Utilities and Entergy and 2) the operation of River Bend by EOI be vacated and the case remanded to the NRC.

The safety evaluation attached is the same as issued for License Amendment No. 69 (now renumbered No. 78) although some matters, unrelated to the remand, have since been appropriately dispositioned by the licensees. This supplemental safety evaluation updates the attached safety evaluation and provides the staff's basis for reissuance of the license amendment.

2.0 EVALUATION

As a result of the court's order in Cajun Electric Power Cooperative, Inc. v. NRC, No. 94-1113 and consolidated case No. 94-1114, the staff initiated a new inquiry to determine whether it could approve the two amendments relating to the GSU/Entergy merger requested by GSU in light of Cajun Electric Power Cooperative, Inc. v. FERC, 28 F.2d 173 (D.C. Cir. 1994). In making its determination regarding whether the merger would create or maintain a

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situation inconsistent with the antitrust laws, the staff weighed the effects of the merger against its own review standards, i.e., those set forth by the Commission in its Summer decision. The staff determined in its April 5, 1995, no significant changes finding that the merger occurred after the previous review and was attributable to the licensee, satisfying the first two Summer criteria; however, the staff does not believe that the consequences of the merger would satisfy the third Summer criterion, i.e., requiring a Commission remedy in the instant proceeding. As a result of requests to reevaluate its no significant antitrust changes finding, the staff performed such a reevaluation and reaffirmed its earlier findings. The staff determined that the concerns raised by the commenters were covered by existing license conditions and thus were subject to resolution through the Commission's enforcement processes.

3.0 STATE CONSULTATION

In accordance with the Commission's regulations, the Louisiana State Official was notified of the proposed issuance of the amendment. The State official had no comments.

4.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributors: D. Wigginton
W. Lambe

Date: June 8, 1995

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
GULF STATES UTILITIES)	Docket No. 50-458
ENERGY CORPORATION)	(License No. NPF-47)
ENERGY OPERATIONS, INC.)	
(River Bend Station, Unit 1))	

ORDER APPROVING TRANSFERS
AND NOTICE OF ISSUANCE
OF LICENSE AMENDMENTS

I.

On November 20, 1985, pursuant to 10 CFR part 50, License No. NPF-47 was issued, under which Gulf States Utilities Company (GSU) is authorized to operate and hold a 70 percent ownership share in River Bend Station, Unit 1 (River Bend), which is located in West Feliciana Parish, Louisiana.

II.

In June 1992, GSU and Entergy Corporation (Entergy) entered into an agreement providing for the combination of the businesses of their companies. In accordance with the merger plan, GSU, following the merger, will continue to operate as an electric utility, but as a subsidiary of a new holding company to be named Entergy Corporation, with its electric operations fully integrated with those of the Entergy System. Upon consummation of the proposed business combination and subject to the receipt of the necessary approvals, Entergy Operations Inc. (EOI), on behalf of the owners, will assume operations and managerial responsibility for River Bend.

III.

To implement the business combination, GSU applied to the U. S. Nuclear Regulatory Commission (NRC) for two license amendments to license NPF-47, by two letters dated January 13, 1993, as supplemented by later filings. Under these requested license amendments, the license would reflect the transfer of ownership of GSU to become a wholly-owned subsidiary of Entergy as a result of a merger between GSU and Entergy, and control over the operation of River Bend would be transferred from GSU to EOI, another wholly-owned subsidiary of Entergy. Notice of these applications for transfer and proposed no significant hazards consideration determinations were published in the Federal Register on July 7, 1993 (58 FR 36435 and 58 FR 36436).

IV.

This Order was originally issued on December 16, 1993. By order dated March 14, 1995, the Court of Appeals for the D.C. Circuit ordered that the two orders for 1) the merger of Gulf States Utilities and Entergy and 2) the operation of River Bend Station by EOI be vacated and the case remanded to the NRC.

V.

The transfer of rights under license NPF-47 is subject to the NRC's approval under 10 CFR § 50.80. Based on information provided by GSU and Entergy, and other information before the Commission, it is determined that the proposed transfer of the control of operations of River Bend from GSU to EOI, and the proposed transfer of ownership of GSU to Entergy, subject to the conditions set forth herein, are in the public interest and are consistent with the applicable provisions of law, regulations and orders issued by the

Commission. These actions were evaluated by the staff as documented in Safety Evaluations, dated December 16, 1993, which contain final no significant hazards consideration determinations. The conditions of the transfer, to which GSU has not objected, are:

2.C.(3) Antitrust Conditions

- a. GSU shall comply with the antitrust license conditions set forth in Appendix C, attached hereto and incorporated in this license.

- b. EOI shall not market or broker power or energy from River Bend Station, Unit 1. GSU is responsible and accountable for the actions of its agent, EOI, to the extent said agent's actions affect the marketing or brokering of power or energy from River Bend Station, Unit 1 and, in any way, contravene the antitrust conditions of this paragraph or Appendix C of this license.

2.C.(16) Merger Related Reports

GSU shall inform the Director, NRR:

- a. Sixty days prior to a transfer (excluding grants of security interests or liens) from GSU to Entergy or any other entity of facilities for the production, transmission or distribution of electric energy having a depreciated book value exceeding one percent (1%) of

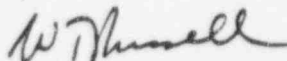
GSU's consolidated net utility plant, as recorded on GSU's books of account.

- b. Of an award of damages in litigation initiated against GSU by Cajun Electric Power Cooperative regarding River Bend within 30 days of the award.

VI.

Accordingly, pursuant to sections 103, 105, 161b, 161i, and 187 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201 et seq. and 10 CFR Part 50, IT IS HEREBY ORDERED that the transfers to Entergy Corporation and Entergy Operations Inc., discussed above, are approved, and NOTICE IS GIVEN that license amendments providing for the transfer of control of operation of River Bend to EOI, subject to the license conditions set out and herein, and the transfer of ownership of GSU to Entergy are issued, effective immediately.

FOR THE NUCLEAR REGULATORY COMMISSION



William T. Russell, Director
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland
this 8th day of June 1995.



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20565-0001

June 8, 1995

Mr. John R. McGaha, Jr.
Vice President Operations
Entergy Operations, Inc.
River Bend Station
P. O. Box 220
St. Francisville, LA 70775

SUBJECT: RIVER BEND STATION, UNIT 1 - AMENDMENT NO. 79 TO FACILITY OPERATING
LICENSE NO. NPF-47 (TAC NO. M91837)

Dear Mr. McGaha:

The Nuclear Regulatory Commission has issued the enclosed Amendment No. 79 to Facility Operating License No. NPF-47 for the River Bend Station, Unit 1. The amendment consists of changes to the license in response to your application dated January 13, 1993, as supplemented by letter dated June 29, 1993.

The amendment revises the River Bend Station, Unit 1 operating license to include as a licensee, Entergy Operations, Inc. (EOI), and to authorize EOI to use and operate River Bend and to possess and use related licensed nuclear materials.

This amendment was originally issued as License Amendment No. 70 on December 16, 1993, subject to NRC approval granted by Order Approving Transfer of License also dated December 16, 1993. By order dated March 14, 1995, the Court of Appeals for the D.C. Circuit ordered that the two orders for 1) the merger of Gulf States Utilities and Entergy and 2) the operation of River Bend Station by EOI be vacated and the case remanded to the NRC. Pursuant to the remand, the NRC reexamined the issue of whether the merger of GSU with Entergy or operation by EOI would create or maintain a situation inconsistent with the antitrust laws. The NRC published its finding of no significant antitrust change and performed a reevaluation after receiving two requests to reevaluate its finding. As explained in the enclosed supplemental safety evaluation, the NRC's reevaluation in response to the two requests resulted in the NRC's reaffirming its earlier finding of no significant antitrust change.

The safety evaluation enclosed is the same as issued for License Amendment No. 70 even though some matters, unrelated to the remand, have since been appropriately dispositioned by the licensees. The supplemental safety evaluation, also enclosed, updates the safety evaluation on those matters remanded by the D.C. Circuit Court. Taken together, the safety evaluation and supplemental safety evaluation provide the NRC's basis for reissuance of the license amendment. The orders are identical to those previously issued except that the language in the final sentence of the original order relating to the completion of the merger has been removed, as the merger has already taken place. The order enclosed is effective immediately.

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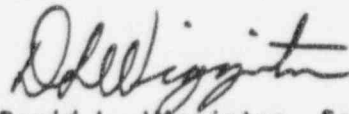
Mr. John R. McGaha

- 2 -

The transfer of any right under the operating license is subject to NRC approval pursuant to 10 CFR 50.80(a). Such approval is given in the enclosed Order Approving Transfer of License, which is being forwarded to the Office of the Federal Register for publication.

A copy of our Safety Evaluation and Supplemental Safety Evaluation are also enclosed. Notice of Issuance will be included in the Commission's biweekly Federal Register notice.

Sincerely,



David L. Wigginton, Senior Project Manager
Project Directorate IV-1
Division of Reactor Projects III/IV
Office of Nuclear Reactor Regulation

Docket No. 50-458

Enclosures: 1. Amendment No. 79 to NPF-47
2. Safety Evaluation
3. Supplemental Safety Evaluation
4. Order

cc w/encls: See next page

Mr. John R. McGaha
Entergy Operations, Inc.

River Bend Station

cc:

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

GULF STATES UTILITIES COMPANY**

CAJUN ELECTRIC POWER COOPERATIVE

DOCKET NO. 50-458

RIVER BEND STATION, UNIT 1

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 79
License No. NPF-47

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by Gulf States Utilities* dated January 13, 1993, as supplemented by letter dated June 29, 1993, 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 I;
 - B. The facility will operate in conformity with the application, as amended, 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 license 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.
2. Accordingly, Facility Operating License No. NPF-47 is hereby amended to read as follows:

* Gulf States Utilities Company under the present license is authorized to act as agent for Cajun Electric Power Cooperative and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

** Gulf States Utilities Company, which owns a 70 percent undivided interest in River Bend, has merged with a wholly owned subsidiary of Entergy Corporation. Gulf States Utilities Company was the surviving company in the merger.

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- (a) The Title on page 1 of the license shall read:

Gulf States Utilities Company,
Cajun Electric Power Cooperative and
Entergy Operations, Inc.
Docket No. 50-458
River Bend Station, Unit 1
Facility Operating License

- (b) Paragraph 1.E of the license shall read:

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 I:

- (c) Footnote * on page 1 of the license shall read:

*EOI is authorized to act as agent for Gulf States Utilities Company, which has been authorized to act as agent for Cajun Electric Power Cooperative, and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

- (d) Paragraph 1.F of the license shall read:

Gulf States Utilities Company, Cajun Electric Power Cooperative, and EOI have satisfied the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," of the Commission's regulations;

- (e) Paragraph 2 of the license shall read:

Based on the foregoing findings and approval by the Nuclear Regulatory Commission at a meeting on November 15, 1985, the License for Fuel Loading and Low Power Testing, License No. NPF-40, Issued on August 29, 1985, is superseded by Facility Operating License NPF-47 hereby issued to EOI, Gulf States Utilities Company and Cajun Electric Power Cooperative (the licensees), to read as follows:

- (f) Paragraph 2.A of the license shall read:

This license applies to the River Bend Station, Unit 1, a boiling water nuclear reactor and associated equipment, owned by Gulf States Utilities Company and Cajun Electric Power Cooperative and operated by EOI. The facility is located approximately 2 miles east of the Mississippi River in West Feliciana Parish, Louisiana, approximately 2.7 miles southeast of St. Francisville, Louisiana and approximately 18 miles northwest of the city limits of Baton Rouge, Louisiana, and is

described in the "Final Safety Analysis Report," as supplemented and amended, and in the Environmental Report-Operating License Stage, as supplemented and amended.

- (g) Paragraph 2.B.(2) of the license shall read:

EOI, pursuant to Section 103 of the Act and 10 CFR Part 50, to possess, use and operate the facility at the above designated location in accordance with the procedures and limitations set forth in this license;

- (h) Paragraphs 2.B.(3), 2.B.(4), 2.B.(5), 2.B.(6), 2.C.(1), and 2.C.(2) shall each be modified by substituting "EOI" for "GSU" wherever the latter appears.

- (i) Paragraph 2.C.(3) of the license shall read:

Antitrust Conditions

- a. GSU shall comply with the antitrust license conditions set forth in Appendix C, attached hereto which is hereby incorporated in this license.
- b. EOI shall not market or broker power or energy from River Bend Station, Unit 1. GSU is responsible and accountable for the actions of its agent, EOI, to the extent said agent's actions affect the marketing or brokering of power or energy from River Bend Station, Unit 1 and, in any way, contravene the antitrust conditions of this paragraph or Appendix C of this license.

- (j) Paragraphs 2.C.(4) and 2.C.(5) shall be modified by substituting "EOI" for "GSU" wherever the latter appears.

- (k) Paragraph 2.C.(5)b. of the license shall read:

- b. Prior to startup following the first refueling outage, GSU* shall furnish the outstanding information identified in Appendix K of SSER 2 addressing the Mark III containment related issues.

- (l) Footnote * on page 4 of the license shall read:

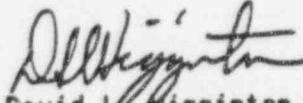
*The original licensee authorized to possess, use and operate the facility was GSU. Consequently, historical references to certain obligations of GSU remain in the license conditions.

- (m) Paragraphs 2.C.(8), 2.C.(10), 2.C.(11), 2.C.(14), 2.C.(15), 2.D, and 2.E shall be modified by substituting "EOI" for "GSU" wherever the latter appears.

(n) The last page of the license shall be marked "Revised:
December 16, 1993."

3. This license amendment is effective as of its date of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION



David L. Wigginton, Senior Project Manager
Project Directorate IV-1
Division of Reactor Projects III/IV
Office of Nuclear Reactor Regulation

Attachment: Facility Operating
License No. NPF-47

Date of Issuance: June 8, 1995

ATTACHMENT TO LICENSE AMENDMENT NO. 79

FACILITY OPERATING LICENSE NO. NPF-47

DOCKET NO. 50-458

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

Remove Page

Insert Page

1
2
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1
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8

Replace Attachments 2, 3, 4, and 5 to License No. NPF-47 in their entirety.

Replace cover page of Appendix B - Environmental Protection Plan.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20565-0001

GULF STATES UTILITIES COMPANY**

CAJUN ELECTRIC POWER COOPERATIVE AND

ENERGY OPERATIONS, INC.

DOCKET NO. 50-458

RIVER BEND STATION, UNIT 1

FACILITY OPERATING LICENSE

License No. NPF-47

1. The Nuclear Regulatory Commission (the Commission or the NRC) has found that:
 - A. The application for license filed by Gulf States Utilities Company, acting on behalf of itself and Cajun Electric Power Cooperative, 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 River Bend Station, Unit 1 (the facility) has been substantially completed in conformity with Construction Permit No. CPPR-145 and the application, as amended, the provisions of the Act and the 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;
 - 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;
 - 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 I;

* EOI is authorized to act as agent for Gulf States Utilities Company, which has been authorized to act as agent for Cajun Electric Power Cooperative, and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

**Gulf States Utilities Company, which owns a 70 percent undivided interest in River Bend, has merged-with a wholly owned subsidiary of Entergy Corporation. Gulf States Utilities Company was the surviving company in the merger.

- F. Gulf States Utilities Company, Cajun Electric Power Cooperative, and EOI have 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 weighing the environmental, economic, technical, and other benefits of the facility against environmental and other costs and considering available alternatives, the issuance of Facility Operating License No. NPF-47, subject to the conditions for protection of the environment set forth herein, 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.
2. Based on the foregoing findings and approval by the Nuclear Regulatory Commission at a meeting on November 15, 1985, the License for Fuel Loading and Low Power Testing, License No. NPF-40, issued on August 29, 1985, is superseded by Facility Operating License NPF-47 hereby issued to EOI, Gulf States Utilities Company and Cajun Electric Power Cooperative (the licensees), to read as follows:
- A. This license applies to the River Bend Station, Unit 1, a boiling water nuclear reactor and associated equipment, owned by Gulf States Utilities Company and Cajun Electric Power Cooperative and operated by EOI. The facility is located approximately 2 miles east of the Mississippi River in West Feliciana Parish, Louisiana, approximately 2.7 miles southeast of St. Francisville, Louisiana and approximately 18 miles northwest of the city limits of Baton Rouge, Louisiana, and is described in the "Final Safety Analysis Report, as supplemented and amended, and in the Environmental Report-Operating License Stage, as supplemented and amended.
 - B. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses:
 - (1) Gulf States Utilities Company (GSU) and Cajun Electric Power Cooperative to possess the facility at the designated location in West Feliciana Parish, Louisiana, in accordance with the procedures and limitations set forth in this license;
 - (2) EOI, pursuant to Section 103 of the Act and 10 CFR Part 50, to possess, use and operate the facility at the above designated location in accordance with the procedures and limitations set forth in this license;

- (3) EOI, pursuant to the Act and 10 CFR Part 70, to receive, possess and to use at any time 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) EOI, 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 fission detectors in amounts as required;
 - (5) EOI, 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 to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and
 - (6) EOI, 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.
- 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 I 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 2894 megawatts thermal (100% rated power) in accordance with the conditions specified herein. 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. 70 and the Environmental Protection Plan contained in Appendix B, 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. GSU shall comply with the antitrust conditions in Appendix C, attached hereto, which is hereby incorporated in this license.
- b. EOI shall not market or broker power or energy from River Bend Station, Unit 1. GSU is responsible and accountable for the actions of its agent, EOI, to the extent said agent's actions affect the marketing or brokering of power or energy from River Bend Station, Unit 1 and, in any way, contravene the antitrust conditions of this paragraph or Appendix C of this license.

(4) Seismic and Dynamic Qualification of Seismic Category 1 Mechanical and Electrical Equipment (Section 3.10, SER and SSER 3)

EOI shall complete the requirements of the seismic and dynamic qualification of mechanical and electrical equipment as specified in Attachment 2. Attachment 2 is hereby incorporated into this license.

(5) Mark III Related Issues (Section 6.2.1.9, SER and SSER 2)

- a. EOI shall not use the residual heat removal system in the steam condensing mode without prior written approval of the staff.
- b. Prior to startup following the first refueling outage, GSU* shall furnish the outstanding information identified in Appendix K of SSER 2 addressing the Mark III containment related issues.

(6) Inservice Inspection Program (Section 5.2.4.3 and 6.6.3, SER and SSER 3)

GSU shall submit the inservice inspection program for NRC staff review and approval by September 1, 1986.

*The original licensee authorized to possess, use and operate the facility was GSU. Consequently, historical references to certain obligations of GSU remain in the license conditions.

- (7) Bypassed and Inoperable Status Indication (Section 7.5.2.2. SER and SSER 3)

Prior to startup following the first refueling outage, GSU shall implement design modifications to improve the capabilities of existing bypassed and inoperable status indication used to monitor the status of safety related systems. The specific design changes to be implemented are identified in a GSU letter dated December 3, 1984 as clarified in a GSU letter dated March 5, 1985.

- (8) TDI Diesel Engines (Section 8.3.1. SSER 3)

EOI shall implement the TDI diesel requirements as specified in Attachment 3. Attachment 3 is hereby incorporated into this license.

- (9) Ultimate Heat Sink (Section 9.2.5. SER and SSER 3)

Prior to startup following the first refueling outage GSU shall have installed and operational in the ultimate heat sink a permanent temperature monitoring system acceptable to the NRC staff and Technical Specification modifications as required.

- (10) Fire Protection (Section 9.5.1. SER and SSER 3)

EOI shall comply with the requirements of the fire protection program as specified in Attachment 4. Attachment 4 is hereby incorporated into this license.

- (11) Operating Staff Experience Requirements (Section 13.1.2.1. SSER 2)

EOI shall have a licensed senior operator on each shift, while in Operating Condition 1, 2 and 3, who has had at least six months of hot operating experience on a plant comparable to River Bend Station, including at least six weeks at power levels greater than 20% of full power, and who has had startup and shutdown experience.

- (12) Post-Fuel-Loading Initial Test Program (Section 14. SER and SSER 3)

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.

(13) Partial Feedwater Heating (Section 15.1, SER)

The facility shall not be operated with partial feedwater heating beyond the end of the normal fuel cycle without prior written approval of the staff. During the normal fuel cycle, the facility shall not be operated with a feedwater heating capacity which would result in a rated thermal power feedwater temperature less than 320°F without prior written approval of the staff.

(14) Emergency Response Capabilities (Generic Letter 82-33, Supplement 1 to NUREG-0737, Section 7.5.2.4, SER and SSER 3, Section 18, SER, SSER 2 and SSER 3)

EOI shall complete the requirements of NUREG-0737 Supplement #1 as specified in Attachment 5. Attachment 5 is hereby incorporated into this license.

(15) Salem ATWS Event, Generic Letter 83-28 (Section 7.2.2.5, SSER 3)

EOI shall submit responses to and implement the requirements of Generic Letter 83-28 on a schedule which is consistent with that given in its letters dated August 3, 1984 and May 20, 1985.

(16) Merger Related Reports

GSU shall inform the Director, NRR:

- a. Sixty days prior to a transfer (excluding grants of security interests or liens) from GSU to Entergy or any other entity of facilities for the production, transmission or distribution of electric energy having a depreciated book value exceeding one percent (1%) of GSU's consolidated net utility plant, as recorded on GSU's books of account.
- b. Of an award of damages in litigation initiated against GSU by Cajun Electric Power Cooperative regarding River Bend within 30 days of the award.

- D. 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: "River Bend Physical Security Plan," with revisions

submitted through November 6, 1987; "River Bend Station Guard Training and Qualification Plan," with revisions submitted through December 16, 1986; and "River Bend Station Safeguards Contingency Plan," with revisions submitted through January 27, 1987. Changes made in accordance with 10 CFR 73.55 shall be implemented in accordance with the schedule set forth therein.

- E. Except as otherwise provided in the Technical Specifications or 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 followup within thirty days in accordance with the procedures described in 10 CFR 50.73(b), (c), and (e).
- F. The licensees 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.
- G. This license is effective as of the date of issuance and shall expire at midnight on August 29, 2025.

FOR THE NUCLEAR REGULATORY COMMISSION

Original Signed By

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosures:

- 1. Attachments 1-5
- 2. Appendix A - Technical Specifications (NUREG-1172)
- 3. Appendix B - Environmental Protection Plan
- 4. Appendix C - Antitrust Conditions

Date of Issuance: November 20, 1985

Revised: December 16, 1993

ATTACHMENT 2

TO NPF-47

SEISMIC AND DYNAMIC QUALIFICATION OF SEISMIC CATEGORY 1 MECHANICAL AND
ELECTRICAL EQUIPMENT

EOI shall complete the following requirements for seismic and dynamic qualification on the schedule noted below: |

1. EOI shall complete the seismic qualification of the in-vessel rack prior to its use. |

ATTACHMENT 3
TO NPF-47
TDI DIESEL ENGINES REQUIREMENTS

EOI shall comply with the following requirements related to the TDI diesel engines.

1. Change to the maintenance and surveillance program for the TDI diesel engines, as identified and approved by the NRC staff in Supplement 3 to the SER, shall be subject to the provisions of 10 CFR 50.59.

The frequency of the major engine overhauls referred to in the license conditions below shall be consistent with Section IV.I, "Overhaul frequency" in revision 2 of Appendix II of the Design Review/Quality Revalidation report which was transmitted by letter dated May 1, 1986, from J. George, Owners Group, to H. Denton, NRC.

2. Crankshafts shall be inspected as follows:

SD 1B: During the first refueling outage, inspect the fillets and oil holes of the three most heavily loaded crankpin journals (Nos. 5, 6, and 7) with florescent liquid penetrant and ET as appropriate.

SD 1A and 1B: During the second and third refueling outages, inspect the fillets and oil holes of two of the three most heavily loaded crankpin journals in the manner just mentioned.

SD 1A and 1B: At approximate 5 year intervals subsequent to the third refueling outage, inspect the fillets and oil holes using florescent liquid penetrant and ET as appropriate, of the: a) three most heavily loaded crankpin journals (Nos. 5, 6, and 7), and b) main journals located between crankpin journals 5, 6, and 7. One engine may be inspected at the refueling outage closest to 5 years, and the other engine at the next refueling outage.

If cracks are found during inspections of crankshafts, this condition shall be reported promptly to the NRC staff and the affected engine shall be considered inoperable. The engine shall not be restored to "operable status" until the proposed disposition and/or corrective actions have been approved by the NRC staff.

3. Cylinder blocks shall be inspected for "ligament" cracks, "stud-to-stud" cracks and "stud-to-end" cracks as defined in a report* by Failure Analysis Associates, Inc. (FaAA) entitled, "Design Review of TDI R-4 and RV-4 Series Emergency Diesel Generator Cylinder Blocks" (FaAA report no. FaAA-84-9-11.1) and dated December 1984. (Noted that the FaAA report specifies additional inspections to be performed for blocks with "known"

*This report was transmitted to H. Denton, NRC, from C. L. Ray, Jr., TDI Owners Group, by letter dated December 11, 1984.

or "assumed" ligament cracks). The inspection intervals (i.e., frequency) shall not exceed the intervals calculated using the cumulative damage index model in the subject FaAA report. In addition, inspection method shall be consistent with or equivalent to those identified in the subject FaAA report.

In addition to inspections specified in the aforementioned FaAA report, blocks with "known" or assumed ligament cracks" (as defined in the FaAA report) should be inspected at each refueling outage to determine whether or not cracks have initiated on the top surface exposed by the removal of two or more cylinder heads. This process should be repeated over several refueling outages until the entire block top has been inspected. Liquid penetrant testing or a similarly sensitive nondestructive testing technique should be used to detect cracking, and eddy current should be used as appropriate to determine the depth of any cracks discovered.

If inspection reveals cracks in the cylinder blocks between stud holes-of adjacent cylinders ("stud-to-stud" cracks) or "stud-to-end" cracks, this condition shall be reported promptly to the NRC staff and the affected engine shall be considered inoperable. The engine shall not be restored to "operable status" until the proposed disposition and/or corrective actions have been approved by the NRC staff.

4. The following air roll test shall be performed as specified below, except when the plant is already in an Action Statement of Technical Specification 3/4.8.1, "Electric Power Systems, A.C. Sources":

The engines shall be rolled over with the airstart system and with the cylinder stopcocks open prior to each planned start, unless the start occurs within 4 hours of a shutdown. The engines shall also be rolled over with the airstart system and with the cylinder stopcocks open after 4 hours, but no more than 8 hours, after engine shutdown and then rolled over once again approximately 24 hours after each shutdown. (In the event an engine is removed from service for any reason other than the rolling over procedure prior to expiration of the 8-hour or 24-hour periods noted above, that engine need not be rolled over while it is out of service. The licensee shall air roll the engine over with the stopcocks open at the time it is returned to service.) The origin of any water detected in the cylinder must be determined and any cylinder head which leaks due to a crack shall be replaced. The above air roll test may be discontinued following the first refueling outage subject to the following conditions:

- All cylinder heads are Group III heads (i.e., cast after September 1980).
- Quality revalidation inspections, as identified in the Design Review/Quality Revalidation report, have been completed for all cylinder heads.

- Group III heads continue to demonstrate leak free performance. This should be confirmed with TDI before air roll tests are discontinued.
5. The following actions are required if SD 1A or SD 1B is operated in excess of 3130 KW⁽¹⁾:
- a) For indicated engine loads in the range of 3130 KW to 3200 KW for a period less than two hours⁽²⁾, no additional action shall be required.
 - b) For indicated engine loads in the range of 3130 KW to 3200 KW for a period equal to or exceeding two hours⁽²⁾, a crankshaft inspection pursuant to Item d below shall be performed at the next refueling outage.
 - c) For indicated engine loads in the range of 3200 KW to 3500 KW for a period less than 1 hour⁽²⁾, a crankshaft inspection pursuant to item d below shall be performed for the affected engine at the next refueling outage.
 - d) for indicated engine loads in the range of 3200 KW to 3500 KW for periods equal to or exceeding one hour⁽²⁾ and for engine loads exceeding 3500 KW for any period of time, (1) the engine shall be removed from service as soon as safely possible, (2) the engine shall be declared inoperable, and (3) the crankshaft shall be inspected. The crankshaft inspection shall include crankpin journal numbers 5, 6, and 7 (the most heavily loaded) and the two main journals in between using florescent liquid penetrant and eddy current as appropriate.
6. Periodic inspections of the turbochargers shall include the following:
- The turbocharger thrust bearings should be visually inspected for excessive wear after 40 non-prelubed starts since the previous visual inspection.
 - Turbocharger rotor axial clearance should be measured at each refueling outage to verify compliance with TDI/Elliott specifications. In addition, thrust bearing measurements should be compared with measurements taken previously to determine a need for further inspection or corrective action.

(1) Momentary transients (not exceeding 5 seconds) due to changing of bus loads need not be considered as an overload.

(2) If there are multiple overload events within a given load range since the previous crankshaft inspection, then the time period criterion applies to the total accumulated time in that load range.

- Spectrographic and ferrographic engine oil analysis shall be performed quarterly to provide early evidence of bearing degradation. Particular attention should be paid to copper level and particulate size, which could signify thrust bearing degradation.
 - The nozzle ring components and inlet guide vanes should be visually inspected at each refueling outage for missing parts or parts showing distress on a one-turbocharger-per-refueling-outage basis. In addition, these inspections should be performed for all turbochargers at each turbocharger overhaul (i.e., at approximately 5-year intervals). If any missing parts or distress is noted, the entire ring assembly should be replaced and the subject turbocharger should be reinspected at the next refueling outage.
7. Operation beyond the first refueling outage is subject to NRC staff approval based on the staff's final review of the Owners Group generic findings and of the overall design review and quality revalidation program at River Bend.

ATTACHMENT 4
TO NPF-47
FIRE PROTECTION PROGRAM REQUIREMENTS

EOI shall comply with the following requirements of the fire protection program:

1. 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 22 and as approved in the SER dated May 1984 and Supplement 3 dated August 1985 subject to provisions 2 and 3 below.
2. EOI may make no change to the approved fire protection program which would significantly decrease the level of fire protection in the plant without prior approval of the Commission. To make such a change EOI must submit an application for license amendment pursuant to 10 CFR 50.90.
3. EOI may make changes to features of the approved fire protection program which do not significantly decrease the level of fire protection without prior Commission approval provided (a) such changes do not otherwise involve a change in a license condition or technical specification or result in an unreviewed safety question (see 10 CFR 50.59), and (b) such changes do not result in failure to complete the fire protection program approved by the Commission prior to license issuance. EOI shall maintain, in an auditable form, a current record of all such changes, including an analysis of the effects of the change on the fire protection program, and shall make such records available to NRC inspectors upon request. All changes to the approved program shall be reported to the Director of the Office of Nuclear Reactor Regulation, along with the FSAR revisions required by 10 CFR 50.71(e).

ATTACHMENT 5

TO NPF-47

EMERGENCY RESPONSE CAPABILITIES

EOI shall complete the following requirements of NUREG-0737 Supplement No. 1 |
on the schedule noted below:

1. Actions and schedules for correcting all human engineering discrepancies (HEDs) identified in the "Detailed Control Room Design Review Summary Report" dated October 31, 1984 and Supplements dated May 14, June 12, 1985, and July 31, 1985, shall be implemented in accordance with the schedule committed to by GSU in the summary report and supplements and accepted by the NRC staff in Section 18.1 of SSER 3.
2. Prior to startup following the first refueling outage, GSU shall implement modifications (installation or upgrade) for those items listed below consistent with the guidance of Regulatory Guide 1.97, Revision 2 unless prior approval of an alternate design of these items is granted by the NRC staff. These items as listed in GSU's letter of June 24, 1985 are:
 - a) coolant level in the reactor;
 - b) suppression pool water level;
 - c) drywell atmosphere temperature;
 - d) primary system safety relief valve position;
 - e) standby liquid control system storage tank level;
 - f) emergency ventilation damper position; and
 - g) airborne radiohalogens and particulates.
3. EOI shall implement modifications (installations or upgrade) for |
neutron flux monitoring consistent with the guidance of Regulatory Guide 1.97, Revision 2 or the NRC Staff's Safety Evaluation Report of the BWR Owners Group Licensing Topical Report (NEDO-31558, Position on NRC Regulatory Guide 1.97, Revision 3, Requirements for Post-Accident Neutron Monitoring System). Modifications, if required, shall be completed before restart from the next refueling outage starting after 18 months from the date of receipt of the NRC Staff Evaluation Report on NEDO-31558, but no later than startup from refueling outage No. 4 unless otherwise notified in writing by the NRC staff.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

SUPPLEMENTAL SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO AMENDMENT NO. 79 TO FACILITY OPERATING LICENSE NO. NPF-47

ENERGY OPERATIONS, INC.

RIVER BEND STATION, UNIT 1

DOCKET NO. 50-458

1.0 INTRODUCTION

By application dated January 13, 1993, as supplemented by letter dated June 29, 1993, Gulf States Utilities (the licensee) requested an amendment to Facility Operating License No. NPF-47 for the River Bend Station, Unit 1 (River Bend). The proposed amendment involves a change in the River Bend managing agent from Gulf States Utilities (GSU) to Entergy Operations, Inc. (EOI), a wholly-owned subsidiary of Entergy. A separate license amendment has been proposed to accomplish the ownership transfer.

On December 16, 1993, in License Amendment No. 70 and by Order Approving Transfer of License dated the same day, the NRC approved the licensee's request. By order dated March 14, 1995, the Court of Appeals for the D.C. Circuit ordered that the two NRC orders for 1) the merger of Gulf States Utilities and Entergy and 2) the operation of River Bend by EOI be vacated and the case remanded to the NRC.

The safety evaluation attached is the same as issued for License Amendment No. 70 (now renumbered No. 79) although some matters, unrelated to the remand, have since been appropriately dispositioned by the licensees. This supplemental safety evaluation updates the attached safety evaluation and provides the staff's basis for reissuance of the license amendment.

2.0 EVALUATION

Although the Appeals Court for the D.C. Circuit remanded both NRC orders pursuant to the staff's amendment review of the proposed GSU/Entergy merger, i.e., the orders addressing change in ownership and change in operator, the staff has determined that no further regulatory review is necessary regarding the change in operator from GSU to EOI. The license condition prohibiting EOI from engaging in the marketing or brokering of power or energy from the River Bend facility effectively eliminates EOI's ability to exercise any competitive influence in the bulk power markets served by River Bend. The staff reaffirmed this position in its reevaluation of its no significant antitrust change finding.

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3.0 STATE CONSULTATION

In accordance with the Commission's regulations, the Louisiana State Official was notified of the proposed issuance of the amendment. The State official had no comments.

4.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributors: D. Wigginton
W. Lambe

Date: June 8, 1995

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
GULF STATES UTILITIES)	Docket No. 50-458
ENERGY CORPORATION)	(License No. NPF-47)
ENERGY OPERATIONS, INC.)	
(River Bend Station, Unit 1))	

ORDER APPROVING TRANSFERS
AND NOTICE OF ISSUANCE
OF LICENSE AMENDMENTS

I.

On November 20, 1985, pursuant to 10 CFR part 50, License No. NPF-47 was issued, under which Gulf States Utilities Company (GSU) is authorized to operate and hold a 70 percent ownership share in River Bend Station, Unit 1 (River Bend), which is located in West Feliciana Parish, Louisiana.

II.

In June 1992, GSU and Entergy Corporation (Entergy) entered into an agreement providing for the combination of the businesses of their companies. In accordance with the merger plan, GSU, following the merger, will continue to operate as an electric utility, but as a subsidiary of a new holding company to be named Entergy Corporation, with its electric operations fully integrated with those of the Entergy System. Upon consummation of the proposed business combination and subject to the receipt of the necessary approvals, Entergy Operations Inc. (EOI), on behalf of the owners, will assume operations and managerial responsibility for River Bend.

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III.

To implement the business combination, GSU applied to the U. S. Nuclear Regulatory Commission (NRC) for two license amendments to license NPF-47, by two letters dated January 13, 1993, as supplemented by later filings. Under these requested license amendments, the license would reflect the transfer of ownership of GSU to become a wholly-owned subsidiary of Entergy as a result of a merger between GSU and Entergy, and control over the operation of River Bend would be transferred from GSU to EOI, another wholly-owned subsidiary of Entergy. Notice of these applications for transfer and proposed no significant hazards consideration determinations were published in the Federal Register on July 7, 1993 (58 FR 36435 and 58 FR 36436).

IV.

This Order was originally issued on December 16, 1993. By order dated March 14, 1995, the Court of Appeals for the D.C. Circuit ordered that the two orders for 1) the merger of Gulf States Utilities and Entergy and 2) the operation of River Bend Station by EOI be vacated and the case remanded to the NRC.

V.

The transfer of rights under license NPF-47 is subject to the NRC's approval under 10 CFR § 50.80. Based on information provided by GSU and Entergy, and other information before the Commission, it is determined that the proposed transfer of the control of operations of River Bend from GSU to EOI, and the proposed transfer of ownership of GSU to Entergy, subject to the conditions set forth herein, are in the public interest and are consistent with the applicable provisions of law, regulations and orders issued by the

Commission. These actions were evaluated by the staff as documented in Safety Evaluations, dated December 16, 1993, which contain final no significant hazards consideration determinations. The conditions of the transfer, to which GSU has not objected, are:

2.C.(3) Antitrust Conditions

- a. GSU shall comply with the antitrust license conditions set forth in Appendix C, attached hereto and incorporated in this license.
- b. EOI shall not market or broker power or energy from River Bend Station, Unit 1. GSU is responsible and accountable for the actions of its agent, EOI, to the extent said agent's actions affect the marketing or brokering of power or energy from River Bend Station, Unit 1 and, in any way, contravene the antitrust conditions of this paragraph or Appendix C of this license.

2.C.(16) Merger Related Reports

GSU shall inform the Director, NRR:

- a. Sixty days prior to a transfer (excluding grants of security interests or liens) from GSU to Entergy or any other entity of facilities for the production, transmission or distribution of electric energy having a depreciated book value exceeding one percent (1%) of

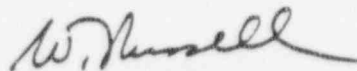
GSU's consolidated net utility plant, as recorded on GSU's books of account.

- b. Of an award of damages in litigation initiated against GSU by Cajun Electric Power Cooperative regarding River Bend within 30 days of the award.

VI.

Accordingly, pursuant to sections 103, 105, 161b, 161i, and 187 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201 et seq. and 10 CFR Part 50, IT IS HEREBY ORDERED that the transfers to Entergy Corporation and Entergy Operations Inc., discussed above, are approved, and NOTICE IS GIVEN that license amendments providing for the transfer of control of operation of River Bend to EOI, subject to the license conditions set out and herein, and the transfer of ownership of GSU to Entergy are issued, effective immediately.

FOR THE NUCLEAR REGULATORY COMMISSION



William T. Russell, Director
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland
this 8th day of June 1995.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
RELATED TO AMENDMENT NO. 79 TO FACILITY OPERATING LICENSE NO. NPF-47

GULF STATES UTILITIES

CAJUN ELECTRIC POWER COOPERATIVE

RIVER BEND STATION, UNIT 1

DOCKET NO. 50-458

1.0 INTRODUCTION

By letter dated January 13, 1993, as supplemented by letter dated June 29, 1993, Gulf States Utilities (GSU) requested an amendment to Facility Operating License No. NPF-47 for River Bend Station, Unit 1 (River Bend). The proposed amendment involves a change in the River Bend managing agent from Gulf States Utilities to Entergy Operations, Inc. (EOI), a wholly-owned subsidiary of Entergy Corporation (Entergy). The ownership of GSU will also be transferred to Entergy resulting in GSU becoming a wholly-owned subsidiary of Entergy. A separate license amendment has been proposed to accomplish the ownership transfer.

2.0 DISCUSSION

River Bend is a nuclear powered electric generating facility which is being operated on behalf of the owners, GSU and Cajun Electric Power Cooperative Inc. (Cajun), pursuant to a Joint Ownership Participation and Operating Agreement (JOPOA), submitted to the NRC by letter dated October 26, 1979. In accordance with the JOPOA, GSU, an electric utility, has acted as the managing agent for the co-owners, with responsibility for management, operation, and maintenance of River Bend. This position has been recognized in the operating license.

In June 1992, GSU and Entergy entered into an agreement providing for the combination of the businesses of their companies. In accordance with the merger plan, GSU, following the merger, will continue to operate as an electric utility, but as a subsidiary of a new holding company to be named Entergy Corporation with its electric operations fully integrated with those of the Entergy System. Upon consummation of the proposed business combination and subject to the receipt of all necessary approvals, EOI, on behalf of the owners, could assume operational and managerial responsibility for River Bend. Consummation of the proposed merger between GSU and Entergy would occur prior to and would be a condition precedent to the effectiveness of the amendment to the River Bend operating license as proposed.

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EOI's agency responsibilities and the limitations on EOI's agency authority with respect to the operation and maintenance of River Bend will be set forth in an operating agreement between EOI and GSU substantially identical to the existing operating agreements between EOI and the owners of the Entergy System's nuclear facilities. EOI would assume operational and managerial responsibility for River Bend as agent for GSU and would be solely responsible for the safe operation of River Bend. The operating agreement will be subject to the rights of GSU and Cajun under the JOPOA.

Upon consummation of these arrangements and subject to the Reorganization Agreement, substantially all employees of GSU who are presently dedicated to the operation of River Bend (approximately 890 persons) will be transferred to and become employees of EOI. The EOI-GSU operating agreement will not affect the ownership of River Bend, EOI's services thereunder will be provided at cost, and GSU will retain control over EOI's spending and contracting authority and, pursuant to the JOPOA, continue to provide its allocable share of the funds required for the operation, maintenance and decommissioning of River Bend.

In addition, EOI and GSU propose to enter into a related Support Agreement and a Switchyard and Transmission Interface Agreement. Under these agreements, GSU will provide to EOI (1) necessary personnel, supplies and services to support the operation of River Bend and (2) access to and necessary control over the switchyard facilities at River Bend and necessary personnel, supplies, and services pertaining to the operation and maintenance of the associated transmission equipment.

EOI and GSU contemplate that this transition will be initially accomplished by transferring to EOI the existing GSU nuclear personnel with virtually no organizational changes or disruption. In the near term, there will be no organizational or physical location changes to the existing dedicated organization, which includes the engineering, maintenance, quality assurance, and licensing organizations supporting River Bend, as a result of the transfer of operating authority to EOI. This will achieve continuity in the management of River Bend by allowing EOI to initially assume the role of operator with the same staff that the NRC has previously evaluated and approved in connection with the technical qualifications of GSU. The longer term consolidation of the GSU nuclear organization into EOI will be an evolutionary process. EOI has committed to keep the NRC informed of organizational changes, as appropriate.

3.0 EVALUATION

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 review of the transfer of operation of the facility from GSU to EOI was simplified by the fact that the GSU personnel currently acting in all areas as nuclear operations personnel will transfer to EOI.

Management and Technical Qualifications

In its application dated January 13, 1993, GSU stated that a change in the River Bend managing agent will not result in changes to the station's technical support organization. GSU has stated that the present River Bend organization, the Oversight organization, the Business Systems organization, and the Engineering and Administration organization will be transferred essentially intact from GSU to EOI, subject to the terms of the Reorganization Agreement. The technical qualifications of the proposed River Bend organization, therefore, will be at least equivalent to those of the existing organization.

The only change in the proposed River Bend organization is that the senior nuclear executive will report directly to the President and Chief Executive Officer of EOI. EOI, as an operating company for multiple reactors, has a large repository of system nuclear operating expertise and experience. Consolidation of this talent will permit application of expertise in certain specialized areas at River Bend. Integration of River Bend into the EOI organization will also allow more effective communication and use of EOI nuclear operating experience. EOI, with its expanded responsibilities, will also provide a broader base for management candidates experienced in nuclear generation and will provide greater opportunity to attract and retain highly qualified employees.

Acceptance of this change in managing agent is based on the proposed managing agent, EOI, being technically qualified to operate the plant and having the necessary managerial and technical resources to provide assistance to the plant staff during normal and off-normal conditions, and in the event of an emergency.

Based on its review of information given in the amendment request the staff has determined that:

- (1) The corporate and plant organizational structure and functions for operation and technical support of River Bend Station are acceptable.
- (2) The organizational structure described in the amendment request provides for the integrated management of activities that support the operations of River Bend.
- (3) The management controls, lines of authority, and channels of communication between the organizational units involved in the management, operation, and technical support for River Bend are acceptable.

These findings support the staff's determination that the proposed managing agent, EOI, will have the necessary managerial and technical resources to provide assistance to River Bend staff during normal and off-normal conditions, including an emergency, as specified in Section 13.1.1 of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants"

(SRP). Moreover, since all GSU nuclear employees will become EOI employees, the staff concludes that the operating organization is acceptable as specified in SRP Section 13.1.2 - 13.1.3.

Financial Considerations

EOI is a wholly-owned subsidiary of Entergy, Inc. (Entergy). EOI is responsible for operating Entergy's nuclear plants that it owns through three utility subsidiaries: Arkansas Power and Light Company, Louisiana Power and Light Company, and Mississippi Power and Light Company. Because EOI operates plants for these subsidiaries, but neither owns nor uses power from these plants, EOI has no substantial assets of its own. EOI receives payment for operating the Entergy nuclear plants through agreements with Entergy's utility subsidiaries. These agreements obligate the utility subsidiaries to pay the operating and capital costs associated with the nuclear plants. A similar arrangement would be instituted between EOI and GSU when Entergy and GSU complete their merger.

Because of the EOI/GSU operating agreement, the financial qualifications of EOI are dependent on GSU's and Cajun's continued ability to pay operating expenses for River Bend as they are currently doing. As such, there are no financial considerations from the proposed transfer of operating responsibility for River Bend beyond those that would pertain to GSU had it kept such operating responsibility.

Antitrust Considerations

EOI will not acquire any ownership interest in River Bend or the energy provided by River Bend. In addition, the licensee has proposed in its June 29, 1993, letter a license condition stating that EOI will not be involved in the marketing or brokering of power or energy from River Bend. Therefore, this amendment raises no issue with respect to antitrust considerations.

Restricted Data

The application for amendment does not contain any restricted data or other defense information, and GSU does not expect that any such information will become involved in the licensed activities. However, GSU has committed and EOI agrees that, should such information become involved, it will safeguard any such information and limit access to it until the Office of Personnel Management can investigate, report to the NRC, and NRC approve or disapprove access of individuals to restricted data. The staff finds this to be acceptable and in accordance with the requirements of 10 CFR 50.37.

Offsite Power

In its application for amendment, GSU has stated there will be no change in the arrangements to provide offsite power to the plant as a result of the change in operational control requested by the application. GSU has committed to providing offsite power for River Bend. Procedures and agreements will provide

for the continuation of current arrangements for the operation and maintenance of the switchyard for River Bend and associated transmission facilities. The agreements will also specify that GSU will coordinate with EOI all activities which will directly affect power supply to River Bend. The staff finds this to be acceptable.

Other Areas

Upon assumption of operating responsibility, EOI will assume ultimate responsibility in the areas of training, engineering support, quality assurance, and security (including the exclusion areas). EOI will assume authority for functions necessary to fulfill the emergency planning requirements and GSU will continue to fulfill selective emergency planning functions. The required support will be assured by a support agreement that will be entered into between GSU and EOI under which GSU will provide personnel, supplies, and services to EOI necessary to support the River Bend emergency plan. GSU has stated that EOI will manage, operate, and maintain River Bend in these areas in accordance with the conditions and requirements established by the NRC with respect to River Bend and with the same regard for public and personnel safety as heretofore exemplified by GSU. GSU has stated that, except for administrative changes to reflect the role of EOI, the commitments in the River Bend quality assurance program, the River Bend emergency plan, security plan, and training program will be unaffected, and that this license amendment will not change any of the licensee's regulatory commitments to the NRC. The staff finds this to be acceptable.

License Conditions

(a) Administrative Changes

Throughout the license, license conditions and other statements are proposed to be modified to reflect EOI as a new licensee and the operator/managing agent for all licensees. These administrative changes, necessary to effect the transfer of operating authority, are acceptable.

(b) Marketing of Energy

A new license condition (2.C.(3)(b)) relating to the marketing and brokering of energy will be included in the license. This condition results from a commitment from GSU that EOI would not participate in the marketing or brokering of energy. Such a commitment was provided by a letter dated June 29, 1993. The new license condition states:

EOI shall not market or broker power or energy from River Bend Station, Unit 1. GSU is responsible and accountable for the actions of its agent, EOI, to the extent said agent's actions affect the marketing or brokering of power or energy from River Bend Station, Unit 1

and, in any way, contravene the antitrust conditions of this paragraph or Appendix C of this license.

Hearing Contentions

On July 7, 1993, the NRC noticed GSU's request for this amendment in the Federal Register (58 FR 36436) and offered an opportunity for interested persons to file petitions to intervene and requests for a hearing. On August 6, 1993, Cajun filed a petition to intervene and request for a hearing. Cajun supplemented its petition on August 17, 1993. On August 31, 1993, in response to an August 26, 1993 notice in the Federal Register that an Atomic Safety and Licensing Board (ASLB) had been established for this proposed amendment, Cajun filed seven contentions, which are addressed below. A prehearing conference was held on September 15, 1993, to hear arguments on the petition to intervene and responsive pleadings.

By a filing before the Licensing Board on October 13, 1993, the staff addressed the contentions regarding their admissibility for a hearing. Cajun's contentions and the staff's consideration of their applicability to safety are presented below:

- C-1 "The proposed amendments fail to reflect the public interest and interests of co-owners, wholesale customers and customers that may be affected by the outcome of the Cajun and Texas litigation.

Cajun failed to state in its basis what it perceives to be the relationship between the proposed amendment and the litigation that it says may bankrupt GSU. While it states that there may be an "adverse financial impact" from the proposed merger and the litigation, it does not indicate how this alleged impact relates to the safe operation of River Bend. Based on the information provided by Cajun, it appears that the effect of the outcome of the cited litigation would be the same without regard to who owns GSU and who operates River Bend.

- C-2 "The proposed amendments may result in a significant reduction in the margin of safety at River Bend."

Cajun's discussion in support of this contention does not address the margin of safety, but instead discusses funding and the possibility that River Bend might have to shut down because of the unavailability of funds to operate the plant. Cajun's arguments notwithstanding, established safety margins are contained in the plant technical specifications through the limiting conditions for operation, limiting safety system settings, and safety limits. There will be no change to the technical specifications for River Bend as a result of granting the amendment nor will there be any change to the physical design of the plant. Cajun itself has stated that EOI's operation of the plant will enhance safety.

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August 4, 1994

VIA FEDERAL EXPRESS

Mr. Ron Garvin, Clerk
United States Court of Appeals for
the District of Columbia Circuit
333 Constitution Avenue, N.W.
Washington, D.C. 20001

RE: Cities of Benton, North Little Rock, Osceola, Prescott, Arkansas, The
Conway Corporation, West Memphis Utilities Commission And The
Farmers Electric Cooperative Corporation v. Nuclear Regulatory
Commission, Docket No. _____

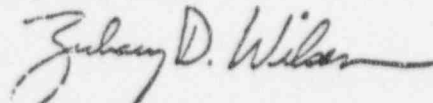
Dear Mr. Garvin:

Enclosed for filing are the original and five copies of Petition For Review of
the Cities of Benton, North Little Rock, Osceola, Prescott, Arkansas, the Conway
Corporation, West Memphis Utilities Commission, and the Farmers Electric
Cooperative Corporation. Also enclosed is my check in the amount of \$100.00 to
cover the filing fee.

Please return to me one file-marked copy in the enclosed, self-addressed,
stamped envelope.

Thank you for your assistance in this matter.

Very truly yours,



Zachary D. Wilson

ZDW/jc
Enclosures
cc: Service List
Clients

UNITED STATES COURT OF APPEALS
FOR THE
DISTRICT OF COLUMBIA CIRCUIT

CITIES OF BENTON, NORTH LITTLE ROCK,
OSCEOLA, PRESCOTT, ARKANSAS, THE CONWAY
CORPORATION, WEST MEMPHIS UTILITIES
COMMISSION, AND THE FARMERS ELECTRIC
COOPERATIVE CORPORATION

PETITIONERS

VS.

DOCKET NO. _____

NUCLEAR REGULATORY COMMISSION

RESPONDENT

PETITION FOR REVIEW

Pursuant to § 189 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2239 and Rule 15 (a) of the Federal Rules of Appellate Procedure and the Rules of this Court, the Cities of Benton, North Little Rock, Osceola, and Prescott, Arkansas, the Conway Corporation (City of Conway, Arkansas), the West Memphis Utilities Commission (City of West Memphis, Arkansas) and the Farmers Electric Cooperative Corporation (collectively, Arkansas Cities and Cooperative), hereby petition this Court for review of the following order issued by the Nuclear Regulatory Commission:

Gulf States Utilities Company and Cajun Electric Power Cooperative, Inc., "River Bend Station, Unit 1: Reevaluation and Affirmation of Finding of No Significant Antitrust Changes," Docket No. 50-458, dated May 30, 1995.


For purposes of Rule 26.1 of the United States Court of Appeals for the District of Columbia Circuit, Arkansas Cities and Cooperative state that Arkansas Cities are Municipal Corporations of the First Class organized under the laws of the State of Arkansas (Cities of Benton, North Little Rock, Osceola and Prescott), a political subdivision of the State of Arkansas (West Memphis Utilities Commission), an Arkansas Not-For-Profit corporation (Conway Corporation), which do not issue shares or debt securities to the public other than general obligation and revenue bonds authorized under the laws of the State of Arkansas. Arkansas Cities do not have any parent companies, subsidiaries, or affiliates that issue shares or debt securities to the public within the meaning of this Court's rules.

Cooperative is a Federal Rural Electrification Administration financed not-for-profit Electric Cooperative Corporation organized under the laws of the State of Arkansas which exists for the purpose of distribution of electric power to cooperative customers and does not issue shares or debt securities to the public. It does not have any parent

companies, subsidiaries, or affiliates that issue shares or debt securities to the public.

Petitioners state that Arkansas Cities and Cooperative are customers and competitors of Arkansas Power & Light Company (AP&L), one of Entergy's Operating Company Subsidiaries. Arkansas Cities and Cooperative are dependent upon AP&L for access to the national power transmission grid and were parties of record in the proceeding below. They, thus, have a substantial interest in this matter and were aggrieved by the Respondent's ruling in the subject orders.

Respectfully submitted,

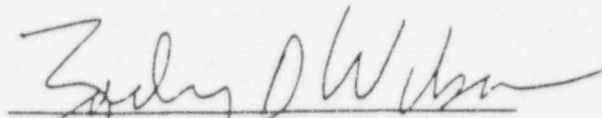


Zachary David Wilson, P.A.
Attorney for Arkansas Cities and
Cooperative

321 Maple Street
P.O. Box 5578
North Little Rock, AR 72219
(501) 376-4090
Bar No. 73130

CERTIFICATE OF SERVICE

I, Zachary D. Wilson, Attorney for Arkansas Cities, do hereby certify that I have this 4th day of August, 1995, served a copy of the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.



Zachary D. Wilson



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 6, 1995

Brian C. Donahue, Esq.
Zachary D. Wilson, P.A.
321 Maple Street
P.O. Box 5578
North Little Rock, AR 72219

SUBJECT: RIVER BEND STATION, UNIT 1: REEVALUATION OF NO SIGNIFICANT
ANTITRUST CHANGE FINDING

Dear Mr. Donahue:

On May 10, 1995, on behalf of the Arkansas Cities of Benton, Conway, North Little Rock, Oslelola, Prescott, and West Memphis, as well as the Farmers Electric Cooperation Corporation, you requested the Director of the Office of Nuclear Reactor Regulation to reevaluate his finding in the captioned proceeding. The Director has reevaluated his finding and has decided not to change his "Finding of No Significant Antitrust Changes."

A copy of the notice that is being transmitted to the Federal Register and a copy of the Director's reevaluation finding are enclosed for your information.

Sincerely,

A handwritten signature in cursive script that reads "William M. Lambe".

William M. Lambe
Antitrust Policy Analyst
License Renewal and Environmental Review
Project Directorate
Associate Director for Advanced Reactors
and License Renewal
Office of Nuclear Reactor Regulation

Docket No. 50-458

Enclosures:
As stated

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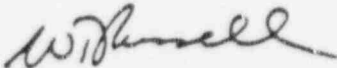
UNITED STATES NUCLEAR REGULATORY COMMISSIONDOCKET NO. 50-458GULF STATES UTILITIES COMPANY AND
CAJUN ELECTRIC POWER COOPERATIVE, INC.
RIVER BEND STATION, UNIT 1
REEVALUATION OF ANTITRUST FINDING

Notice is hereby given that counsel for Cajun Electric Power Cooperative, Inc., and the Arkansas Cities of Benton, Conway, North Little Rock, Osceola, Prescott, and West Memphis as well as Farmer's Electric Cooperative Corporation have requested a reevaluation by the Director of the Office of Nuclear Reactor Regulation of the "Finding of No Significant Antitrust Changes" pursuant to the antitrust review of the captioned nuclear unit. After further review, I have decided not to change my finding.

A copy of my finding, the requests for reevaluation, and my reevaluation are available for public examination and copying, for a fee, at the Commission's Public Document Room, 2120 L Street, N.W., Washington, DC 20555.

Dated at Rockville, Maryland, this ~~30th~~ day of May 1995.

FOR THE NUCLEAR REGULATORY COMMISSION


William T. Russell, Director
Office of Nuclear Reactor Regulation

9506200434 1p

REEVALUATION AND AFFIRMATION OF
FINDING OF NO SIGNIFICANT ANTITRUST CHANGES
RIVER BEND STATION, UNIT 1

By filings dated May 10, 1995, from Cajun Electric Power Cooperative, Inc. ("Cajun") and Cities Of Benton, Conway, North Little Rock, Osceola, Prescott, and West Memphis, Arkansas And The Farmers Electrical Cooperative Corporation (Collectively ACC), I have been requested to reevaluate my Finding of No Significant Antitrust Changes ("Finding") pursuant to the anticipated ownership transfer in the River Bend Station, Unit 1 (River Bend) and operation of River Bend by EOI resulting from the proposed merger of Gulf States Utilities Company (GSU) and Entergy Corporation (Entergy). This Finding was published in the Federal Register on April 10, 1995, (60 Fed. Reg. 1815 (1995)). For the reasons set forth below, I have decided not to change my River Bend finding of no significant antitrust changes.

I. BACKGROUND

A. NRC Antitrust Review

The NRC has established procedures by which prospective licensees of nuclear production facilities are reviewed during the initial licensing process to determine whether the applicant's activities will create or maintain a situation inconsistent with the antitrust laws. Although Section 105 of the Atomic Energy Act of 1954, as amended (AEA), 42 U.S.C. § 2135, does not specifically address the addition of new owners or operators after the initial licensing process, the NRC has, in analyzing situations where new ownership occurs after issuance of an operating license, applied the

standards set forth by the Commission in its Summer¹ decision to determine whether an antitrust review is required. Against this backdrop, the staff has conducted antitrust reviews of operating license amendment requests -- the subject of the instant reevaluation requests.

The NRC has adopted a review process for post-operating license changes in plant ownership patterned after the operating license review associated with initial applicants. Receipt of the application to add a new owner to the facility after the operating license has been issued is noticed in the Federal Register with the opportunity extended to the public to express views relating to any antitrust issues raised by the application. The notice states that the Director of the Office of Nuclear Reactor Regulation (NRR) will issue a finding whether significant changes in the licensee's activities or proposed activities have occurred since the completion of the previous antitrust review.

With the benefit of public comment and consultation with the Department of Justice ("DOJ"), the NRC Staff ("staff") makes a determination whether the changes in question will require a further antitrust review in order to determine whether the issuance of the license amendment will create or maintain a situation inconsistent with the antitrust laws. If the Director of NRR finds a "significant change," the matter is referred to the Attorney General for advice pursuant to Section 105(c) of the AEA. If the Director of NRR finds no significant change, the finding is published in the Federal

¹ South Carolina Electric and Gas Company and South Carolina Public Service Authority, (Virgil C. Summer Nuclear Station, Unit 1), CII-80-28, 11 NRC 817 (1980).

Register with an opportunity for the public to request reevaluation of the finding. The requests to reevaluate the Director's Finding noted above are the subject of this reevaluation finding.

The Commission delegated its authority to make significant change findings to the staff and in its Summer order, established a set of criteria the staff must follow in making the determination whether a significant change has occurred:

The statute contemplates that the change or changes (1) have occurred since the previous antitrust review of the licensee(s); (2) are reasonably attributable to the licensee(s); and (3) have antitrust implications that would likely warrant some Commission remedy.²

Significant change reviews are not intended to be hearings, with discovery and examination and cross examination of witnesses, to determine if there should be a further proceeding. Rather, the staff reviews alleged alterations in the competitive structure based on submittal and other information available to it. It is within this framework established by the Commission that I made my Finding of No Significant Antitrust Changes on April 5, 1995, and it is within this framework that I have analyzed each of the requests to reevaluate my finding.

B. Factual Background

Nuclear Regulatory Commission ("NRC" or "Commission") License No. NPF-47 authorizes GSU and Cajun to possess River Bend and further authorizes GSU to act as agent for Cajun with exclusive responsibility and control over the physical construction, operation, and maintenance of River Bend.³ By letter

² See supra, note 1.

³ Gulf States Utilities Company has a 70 percent undivided ownership interest in River Bend Station, Unit 1, and Cajun Electric Power Cooperative has the remaining 30 percent undivided ownership interest.

dated January 13, 1993, the staff received an application from GSU for Commission consent, pursuant to 10 CFR § 50.80, for GSU to transfer control of River Bend to a newly formed holding company to be called Entergy Corporation.⁴ By separate letter dated January 13, 1993, the staff also received an application from GSU, submitted on behalf of itself and Cajun, to transfer operating responsibility and management of River Bend from GSU to Entergy Operations, Inc ("EOI").⁵

The NRC conducted a review of GSU's competitive activities in 1974 in conjunction with the River Bend construction permit ("CP") application. As part of the CP review, GSU entered into a set of policy commitments with DOJ regarding access, interconnection and reserve sharing, wheeling, and exchange of bulk power. Although DOJ identified several instances of alleged abuse of market power by GSU, DOJ concluded that if certain policy commitments made by GSU were imposed as conditions on the River Bend license, an antitrust hearing would be unnecessary. These commitments were imposed as antitrust license conditions in the River Bend construction permit and provided a broad array of access to bulk power and coordinated bulk power services including wholesale

~~X~~ ⁴ Entergy Corporation currently exists as a public utility holding company organized under the laws of the State of Florida, and, through its operating companies, engages principally in the generation, transmission, distribution and sale of electricity in Arkansas, Louisiana, and Mississippi. The Entergy operating companies include: Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company and New Orleans Public Service, Inc. Under the proposed plan to combine the business of GSU with Entergy, a series of mergers will result in the termination of the existing Entergy Corporation and the renaming of the surviving corporation as Entergy Corporation with GSU as a wholly owned subsidiary of the new Entergy Corporation.

⁵ Entergy Operations, Inc. (EOI) is a subsidiary of Entergy which is licensed by the NRC as a non-owner operator of the four nuclear units of the Entergy system (Arkansas Nuclear One, Units 1 and 2; Grand Gulf Nuclear Station, Unit 1; and Waterford Steam Generating Station, Unit No. 3).

power for resale, transmission, interconnections, reserve sharing and other services to primarily smaller power entities in and adjacent to GSU's service area.

In 1985, pursuant to section 105c(2) of the Act, the NRC conducted a "significant changes" review of GSU's competitive activities prior to issuance of the River Bend operating license. One area of concern identified during this review was GSU's refusal to provide transmission services to non-generating power entities. The staff concluded after review of the relevant data that the affected non-generating entities in GSU's service area could receive transmission service through interconnection agreements with Cajun Electric Power Cooperative, Inc. and the Louisiana Energy and Power Authority as well as through a Power Delivery Agreement proposed by GSU. Based on the CP antitrust license conditions and the origination of power delivery agreements that made transmission access available to non-generating entities, the staff made a "no significant changes" determination and declined to conduct a fresh antitrust review for the River Bend operating license.

On October 20, 1993, the NRC published in the Federal Register a No Significant Changes Finding relating to the anticipated transfer of ownership and control of River Bend as a result of the Entergy/GSU merger. 58 Fed. Reg. 16246 (1993). The staff concluded that the comments received concerning this Finding consisted predominantly of allegations of non-compliance with existing antitrust license conditions. Staff distinguished between allegations of non-conformance with license conditions which, if substantiated, are dealt with by enforcing the existing license conditions and "significant changes," as that term has been defined by the Commission in

its Summer decision, which leads to a proceeding, and perhaps a hearing, to determine what remedy would be appropriate to address their anticompetitive implications.

By filings dated November 19, 1993, from Cajun Electric Power Cooperative, Inc., Lafayette, Louisiana (Lafayette), Louisiana Energy and Power Authority (LEPA) and Terrebonne Parish Consolidated Government (Terrebonne), commenters requested reevaluation of the Finding of No Significant Changes. The principal argument contained in each of these requests was that the staff, in evaluating the competitive effects of the proposed GSU/Entergy merger upon relevant bulk power markets, relied exclusively and improperly upon the competitive analyses conducted by the Federal Energy Regulatory Commission (FERC).

*Where
is ACC*

The Director, NRR, denied the requests for reevaluation, concluding that the requesters were incorrect in their assumption that the staff had simply adopted the findings and conclusions of the FERC pertaining to competitive issues raised by the proposed merger. The Director noted that:

the FERC findings in both the proposed GSU/Entergy merger proceeding and the Entergy open access transmission proceeding were considered by the staff and were helpful to the staff in its analysis. However, the staff has determined, based on its analysis of the reasonably apparent changes, that the primary concerns raised by Requesters before the NRC pertain to issues and allegations that are more germane in the context of a petition pursuant to 10 CFR § 2.206 seeking initiation of an enforcement proceeding not a significant change licensing proceeding as envisioned by Requesters. Thus, the staff has not abdicated its review responsibility to the FERC in this proceeding. 58 Fed. Reg. 65200 (1993)

In its request for reevaluation Cajun also suggested that the staff misinterpreted the comments pertaining to competition and requests for transmission service. Cajun alleged that the merger would adversely impact

its access to GSU/Entergy transmission facilities and nullify existing contractual rights. The Director noted in his Finding that the transmission access issues raised by Cajun appeared to have their genesis in long-standing relationships between Cajun, GSU and Entergy and were addressed by the staff at the construction permit and operating licensing stages of River Bend (as well as other Entergy plants, Grand Gulf and Waterford). The requesters' assertion that specific license conditions already in existence give them access rights which a post merger Entergy may be able to frustrate is properly an enforcement issue, the Director concluded.

Cajun also requested that the Director reevaluate his finding that there were no significant (competitive) changes involved in the transfer of operation of River Bend from GSU to non-owner operator EOI. The Director declined, relying on the staff determination that no further antitrust review was required because the River Bend license would be conditioned to prohibit EOI from marketing or brokering power or energy while holding GSU accountable for any actions that contravened any antitrust license conditions. This conclusion was consistent with the Commission's guidance regarding such transfers involving non-owner operators in which the facility license in question is so conditioned.

On February 14, 1994, Cajun filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit challenging the River Bend amendments. In other petitions for review before the court, Cajun challenged an SEC decision and two FERC orders relating to the Entergy/GSU merger. The D.C. Circuit remanded all three of these petitions to the agencies after issuing a full opinion granting the petition for review in the first FERC case (Cajun Electric Power Cooperative, Inc. v. FERC, 28 F.3d 173

(D.C. Cir. 1994). On March 14, 1995, the D.C. Circuit ordered that the NRC orders under review also be remanded to the NRC. In addition, the court, on its own motion, vacated the NRC order because they were based on a "flawed" FERC decision. The court remanded the case to the NRC for further proceedings in light of Cajun Electric.

C. Cajun Electric Power Cooperative, Inc. v. FERC, 28 F. 3d 173 (D.C. Cir. 1994)

In Cajun Electric v. FERC, the D.C. Circuit had before it a challenge to electric power tariffs filed by Entergy before the FERC and approved by the FERC without holding hearings.⁶ Two of these tariffs provided for the sale of wholesale power by Entergy at negotiated, market-based rates, as opposed to cost-based rates. A third tariff was intended to mitigate Entergy's market power by providing open access to its transmission system.⁷ Together, "these tariffs were designed to permit Entergy, a monopolist of transmission services in the relevant market, to engage in market-based pricing while introducing competition to that market through the unbundling of generation sales from transmission services." Cajun Electric, 28 F.3d at 175.

The Court found that the FERC's "failure to conduct an evidentiary hearing [regarding the mitigation of Entergy's market power] was arbitrary and

⁶ The underlying FERC record and analysis in approving these tariffs is what the NRC found "helpful" in conducting its antitrust review of the proposed merger between Entergy and GSU.

⁷ This transmission service tariff (TST) provided that any eligible electric utility could purchase transmission service over Entergy's lines at cost-based rates. It also included a provision under which Entergy could recover its stranded investment costs, i.e., costs due to a surplus in generation (or other) facilities resulting from the introduction of open access to its transmission services.

capricious," and that its substantive decision was flawed in that the Commission "failed to adequately explain its approval of the stranded investment provision, among others." Id. at 180.

Central to Cajun Electric v. FERC was Entergy's move from regulated to market pricing for its wholesale sale of electric power in combination with its bottleneck monopoly over transmission services. This combination gave rise to "a classic tying problem" because "Entergy could use its monopoly power over transmission services to eliminate competition in the market for generation services." Id. at 176. FERC had determined that by granting competitors access to Entergy's transmission services, the Transmission Service Tariff ("TST") (as modified by the FERC)⁸ would mitigate production-related market power and provide sufficient assurance that Entergy would not exercise market power under the new tariffs. Id.

In remanding the case to the FERC, the court found that Cajun had raised serious doubts that FERC had not addressed concerning the TST's mitigation of Entergy's market power. The "most problematic" of these was the stranded investment provision which the court viewed as a tying arrangement. Id. at 177. Other provisions of the TST found by the court to potentially lessen the mitigating effect of the TST of Entergy's market power included (1) Entergy's retention of sole discretion to determine the amount of transmission capability available for its competitors' use, (2) the point-to-point service

⁸ The FERC modified the tariff by requiring Entergy to (1) file all transmission service requests with FERC, (2) to maintain an electronic bulletin board of available transmission capacity and requests for transmission service, and (3) submit an updated market analysis every 3 years. The FERC also permitted customers to file complaints under section 206 of the Federal Power Act if they believed Entergy was exercising market power and required that any stranded investment costs levied against users of Entergy's transmission grid be legitimate and verifiable.

limitation, (3) the failure to impose reasonable time limits on Entergy's response to requests for transmission service, and (4) Entergy's reservation of the right to cancel service in certain instances, even where a customer has paid for transmission system modifications. Id. at 179-80.

D. New Entergy Tariffs

In response to Cajun Electric v. FERC, Entergy filed a revised Transmission Service Tariff ("revised TST") and Network Service Tariff ("NST") with the FERC. These tariffs address, point by point, the criticism of Cajun Electric v. FERC. The stranded investment provision, the subject of the court's major criticism, has been eliminated from the revised TST. Entergy's sole discretion to determine the amount and timing of transmission capability available for competitors use is replaced by a provision specifying how Entergy will evaluate transfer capability. A point-to-point service limitation is replaced by the NST. The time periods for different steps in responding to requests for service have been clarified and the right to cancel service even where the customer has paid for transmission system modifications has been eliminated.

The FERC has allowed these tariffs to go into effect pending a hearing. Entergy Services, Inc., 70 FERC ¶ 61,006, 61012 (1995).

E. NRC New Finding of No Significant Changes

In response to the D.C. Circuit's March 14, 1995, order vacating the River Bend license amendments, the Commission initiated a new inquiry to determine whether it could approve the two license amendments requested by GSU in light of Cajun Electric v. FERC. The staff reviewed its prior findings regarding this matter, information submitted by commenters on the original "significant change" inquiry, and information provided to other governmental

agencies. On April 5, 1995, the Director of NRR, made a new finding that no significant changes in the licensee's activities had occurred subsequent to the previous antitrust review of River Bend. This finding was based upon the staff's view that the concerns raised by the commenters were covered by existing license conditions and remedies, if appropriate, through enforcement of those conditions.

1. Change in Ownership

In its analysis supporting the Director's April 5, 1995, Finding, the staff viewed Commenters' submissions as essentially raising issues relating to four subjects: (1) transmission access, (2) stranded investment, (3) elimination of GSU as a competitor, and (4) market allocation. The staff viewed the transmission access issue as an enforcement issue because it was addressed in a previous licensing proceeding and represents alleged violation of license conditions. The staff indicated in its recommendation of no significant changes that any discussions pertaining to quantifying stranded costs should be addressed at the FERC, and any interpretation of license conditions that may conceivably contain provisions for stranded costs should be addressed in an enforcement proceeding, not a licensing proceeding.

The staff had concerns that the merger would eliminate a viable competitor in the relevant geographic areas under review and requested additional data from the nine commenters regarding the elimination of GSU as a competitor. From the additional data gathered from the commenters, the staff was able to determine that although GSU represented an actual and potential competitor in several wholesale markets in the south central region of the country, it was also apparent that the power systems competing with GSU, notably Arkansas Cities and Farmers Electric Cooperative, had other meaningful

power supply options from which to choose. GSU did not represent the Arkansas Cities' and Farmers Electric Cooperative's only power supply source either directly or indirectly through Arkansas Power & Light Company. Consequently, the staff concluded, independently of the FERC, that Arkansas Cities and Farmers Electric Cooperative would not be significantly disadvantaged in the relevant bulk power services markets because of the elimination of GSU as an independent competitor.

The staff did not believe that there was an attempt by GSU, Entergy and Texas Utilities Electric Company to allocate geographic markets within the state of Texas and did not view the stipulation entered into by the above three power systems before the Texas Public Utility Commission to maintain their existing facilities as presently configured in the same manner after the merger as an allocation of markets for competitive reasons. The staff determined that this stipulation was entered into for the sole purpose of maintaining the relevant facilities as non-jurisdictional under the Federal Power Act.

2. Change in Operator

The staff based its no significant changes finding relating to the transfer of operation of River Bend from GSU to Entergy Operations, Inc. (EOI) on the fact that EOI would not be involved in the marketing or brokering of power generated at River Bend. The staff had been concerned with the competitive impact that a new non-owner operator might have on decisions pertaining to marketing or brokering of power or energy produced and distributed from the plant. As a result, the staff imposed a license condition that prohibits the new plant operator, EOI, from engaging in any competitive activities, i.e., marketing or brokering of power or energy,

associated with the plant was developed and made a part of the license. The license condition also obligated GSU to be responsible for the actions of the new owner to the extent the new owner was involved in violations of this license condition or any other antitrust license conditions that were a part of the River Bend license. Based on these license conditions, the staff determined that any additional antitrust review regarding changed circumstances would be unnecessary because the new operator would have no way of impacting the relevant bulk power services market.

II. DISCUSSION

Commission regulations providing for public requests for reconsideration of a Director's finding of no significant antitrust changes (10 CFR § 2.101(e)(2)) are intended to give the public the opportunity to present new data or highlight data overlooked by the staff in the deliberative process leading up to the Director's finding. The staff received comments from two entities, Cajun Electric Power Cooperative, Inc. ("Cajun") and the cities of Benton, Conway, North Little Rock, Osceola, Prescott, and West Memphis, Arkansas and the Farmers Electric Cooperative Corporation ("ACC").

I note at the outset the requirement of a factual basis for allegations of significant antitrust changes. As the Commission noted in Summer:

we understand Congress's meaning to be that changes in order to be significant must also be reasonably apparent. They must be alterations in the competitive structure or the activities of the licensees discernable from applicants' required submittals, from staff's investigations, or from papers that are filed. In particular when petitioners request a significant changes determination we expect that the changes which have taken place will be known to them so that they can inform us of them with the factual basis underlying their allegations. If that, together with the staff's investigation, does not enable us to determine that significant changes have occurred, then the petition must be denied.

This result is consistent with Congress's expressed intent not casually to burden applicants with a second antitrust review after an extensive antitrust review at the construction license stage.

Summer at 873. The Commission continued in a footnote, "[p]arties may be reminded that other forums exist in which to try allegations of antitrust violations. Furthermore, we are bound to transmit to Justice such allegations as are made to us." Id. at note 45 citing section 105a of the Atomic Energy Act. It is against this backdrop that I conduct this review.

A. Cajun's Comments

Cajun argues that the staff arrived at its no significant antitrust changes finding using stale data and did not consider changes since the staff's original no significant change finding in December 1993. Changes identified by Cajun relate to Cajun Electric v. FERC and Entergy's submittal of revised transmission tariffs before the FERC. But the staff is aware of these developments. Although the court in remanding the NRC case apparently understood the NRC to have relied on a "flawed" FERC decision in making its December 1993 no significant changes finding,⁹ the staff has now looked at the issue and reiterates its no significant changes finding without reliance on the "flawed" FERC decision and without reliance on the new Entergy tariffs filed with FERC. Therefore, these developments have no material effect upon the staff's licensing decision involving the GSU/Entergy merger.

Cajun asserts that the Commission "must fashion a remedy in this proceeding" because the staff has not identified (1) transmission issues that have been raised and addressed in previous cases, (2) which license conditions remedy these specific unidentified issues, or (3) which entity the license

⁹ There was substantial mention of the FERC proceeding in the NRC's discussion of the 1993 no significant changes decision. This perhaps led the court of appeals to believe that the NRC decision rested on the FERC decision.

conditions apply to. Cajun Request at 16-17. Transmission access issues involving GSU have concerned the staff since GSU originally applied for its River Bend license in the early 1970's. The Department of Justice advice letter to the Atomic Energy Commission staff dated March 25, 1974, highlighted GSU's competitive activity in Louisiana and Texas and alleged that several smaller power systems were being denied access to various bulk power services. The advice letter stated that,

Within the past year or so, Applicant [Gulf States Utilities Co.] has evidenced a constructive attitude in its relations with the smaller systems in Louisiana. In the course of our antitrust review of the instant license application, Applicant has discussed with the Department its future policies in this regard. While not conceding that any of its prior conduct may have been anticompetitive, Applicant has indicated in the attached letter to the Department the policies which it will follow with respect to such aspects of its operations in Louisiana as access to nuclear units, interconnection and reserve sharing, wheeling, and exchanges of bulk power. Similar policies will be followed by Applicant in connection with its operations in Texas (Department of Justice advice letter dated March 25, 1974)

As a result of the construction permit review conducted by the Department of Justice and the Atomic Energy Commission staffs, license conditions were attached to the River Bend construction permit to remedy any alleged abuses of market power by GSU. Of particular interest to the instant licensing action, are license condition D.(10) which requires GSU to "facilitate the exchange of bulk power by transmission over its transmission facilities. . . ." and license condition D.(11) which requires GSU to "include in its planning and construction program sufficient transmission capacity as required for the transactions referred to in paragraph (10). . . ."

Moreover, during the operating license review of the River Bend facility in the early 1980's various allegations of anticompetitive conduct surfaced which required the staff to revisit GSU's conduct regarding access to its

transmission system. The staff determined that the refusal by Gulf States to provide transmission services to non-generating power entities was a change in Gulf States' conduct and could represent a significant change since the CP review. The staff indicated that:

If any relief was warranted, it would come in the form of an operating license antitrust review, not from an enforcement proceeding.

See NRC staff "Finding of No Significant Antitrust Changes", May 1985, p. 40. Ultimately, GSU's policy change was resolved and did not require the staff to issue a positive significant change finding. In the instant matter, the alleged changed activity does not represent actual changed company policy or behavior, but rather policies that were addressed by the NRC staff in prior matters which were appropriately mitigated by issuance of antitrust license conditions.

There also exist license conditions which require several Entergy operating subsidiaries to make transmission services available to power systems within the Entergy service area. Both System Energy Resources, Inc. and Mississippi Power & Light Company are obligated to provide transmission services under license conditions issued pursuant to the Grand Gulf Nuclear Station antitrust licensing review. Louisiana Power & Light Company is also required to provide transmission services to electric systems pursuant to the Waterford Nuclear Unit 3 antitrust licensing review. There are procedures and policies in place to remedy non-compliance with these license conditions.

Cajun repeats its concerns regarding stranded investment and the elimination of GSU as a bulk power services competitor. At page 19 of its Comments, Cajun raises new issues pursuant to the viability of Cajun as a bulk

power competitor and the "de facto" allocation of markets in the south central and southeastern states among Entergy, Southern Companies and ERCOT utilities. Cajun Request at 18.

Stranded investment issues are rate-related issues within FERC's primary jurisdiction. The NRC historically has not addressed rate questions, instead deferring to FERC or State rate-setting agencies. It is possible here that "stranded investment" or "opportunity cost" questions could relate to claims of denial of access to transmission lines, but that is a matter for enforcement proceedings, not licensing proceedings. In this case, in any event, issues relating to stranded investment appear to be moot because of Entergy's elimination of the provision for recovery of stranded investment in its newly filed tariffs at FERC.

The staff believes the elimination of GSU as a competitor in the bulk power services market will not significantly impact the south central bulk power services market. Cajun argues that the staff's analysis "assumes that other entities have the ability to effectively use transmission service from Entergy." Cajun Request at 18. What Cajun overlooks is that Entergy is bound by existing River Bend license conditions that protect access to Entergy's transmission grid. Claims of denial of this access can and should be raised in the context of an enforcement proceeding. *

With regard to Cajun's bankruptcy filing, the staff has no data indicating, 1) whether Cajun's filing was precipitated by the proposed merger of GSU and Entergy, or 2) what effect, if any, said filing has on the bulk power services market served by GSU/Entergy. Nor does the staff have any reason to examine the bulk power markets served by Entergy, Southern Companies or the ERCOT utilities outside of any licensing or enforcement related

matters. The fact that there are few competitors in a particular geographic area does not necessarily indicate illegal allocation of economic markets. No evidence has been provided to indicate that these power companies have conspired to restrict markets. With the exception of Occidental Chemical Corporation's allegations of market allocation in the state of Texas during the 1993 staff reevaluation review and those of Cajun in the instant matter, the staff has received no other allegations pursuant to market allocations and any possible anticompetitive effects associated with such allocations. Should Cajun have any evidence of market allocation, it should be made available to the Department of Justice.

Cajun asserts that the Staff Recommendation contains only a passing reference to the revised Entergy tariffs but reflects no analysis of these tariffs. Cajun Request at 4. But the NRC need not analyze the FERC tariffs in detail, as our no significant changes finding rests on the protection of existing NRC license conditions, not on the FERC tariffs. We note, however, that the new FERC tariffs appear to address, point by point, the criticisms of Cajun Electric v. FERC and offer more protection for competition than the original FERC tariffs. For example, the stranded investment provision has been eliminated from the new tariffs and a point-to-point service limitation in the previous tariffs is replaced by a network service tariff. I see nothing in the current FERC tariffs, which FERC itself has allowed to take effect pending further proceedings, that detracts from the NRC's no significant antitrust changes finding.

B. ACC's Comments

ACC adopted and realleged "all of their previous Comments and statements to NRC." (ACC Comments, p. 2) In 1989, the staff conducted a licensing

review of Entergy's transfer of system operations from System Energy Resources, Inc. (an Entergy subsidiary company) to Entergy Operations, Inc. (EOI). As a part of this review, the staff sought and received comments from interested parties concerned with the potential competitive effects associated with this change. ACC submitted comments in the 1989 licensing review indicating that the decision by the FERC to allocate the costs of Grand Gulf Unit 1 among all of the Entergy operating companies represented a significant change and requested that antitrust license conditions be extended to all of Entergy's operating service companies. Generally, ACC contended that license conditions are necessary because their existing wholesale power contracts do not contain the type of terms and conditions that are included in contracts resulting from antitrust reviews associated with other nuclear facilities.

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In its April 23, 1993, comments and request for reevaluation, and by adoption, in its May 10, 1995, comments and request for reevaluation, ACC again argues for imposition of extensive license conditions on all of the Entergy operating companies. The staff dismissed ACC's arguments made in 1989 regarding cost allocations attributable to Grand Gulf as not representing a "significant change". (See Safety Evaluation by the Office of Nuclear Reactor Regulation dated December 14, 1989, pursuant to Amendment No. 102 to the Arkansas Nuclear One, Unit 2 facility operating license no. NPF-6.) Similarly, the staff dismissed ACC's allegations made in 1993 regarding the elimination of GSU as a bulk power competitor. In neither instance was there evidence to suggest that the staff should make a positive significant change finding. The staff has thoroughly explained its position regarding the elimination of GSU as a competitor and sees no reason to add license

conditions to Entergy operating companies for the sake of continuity. Each Entergy plant has undergone distinctly separate antitrust reviews and has its own set of license conditions.

ACC also suggests (as does Cajun) that the D.C. Circuit's order vacating the NRC orders and remanding the case to the NRC "for further proceedings" in light of Cajun Electric requires the NRC to conduct an evidentiary hearing on antitrust issues. Cajun Request at 15; ACC Request at 8. This reading of the court's order is wrong and ignores the NRC's longstanding antitrust review procedures. Nothing in the court's order remanding the case to the NRC for "further proceedings" requires the NRC to conduct a hearing or prevents the NRC from engaging in its usual no significant change process.

As explained in section I.B., supra, under section 105 of the Atomic Energy Act, 42 U.S.C. § 2135, the NRC analyzes situations where new ownership occurs after issuance of an operating license applying the standards set forth in its Summer decision to determine whether an antitrust review is required. The NRC has adopted a review process for post-operating license changes in plant ownership patterned after the operating license review associated with initial applicants. Receipt of the application to add a new owner to the facility after the operating license has been issued is noticed in the Federal Register with the opportunity extended to the public to express views relating to any antitrust issues raised by the application. The notice states that the Director of the Office of Nuclear Reactor Regulation (NRR) will issue a finding whether significant changes in the licensee's activities or proposed activities have occurred since the completion of the previous antitrust review.

With the benefit of public comment and consultation with the Department of Justice, the staff makes a determination whether the changes in question will require a further antitrust review in order to determine whether the issuance of the license amendment will create or maintain a situation inconsistent with the antitrust laws. If the Director of NRR finds a "significant change," the matter is referred to the Attorney General for a formal antitrust review pursuant to Section 105(c) of the AEA. If the Director of NRR finds no significant change, the finding is published in the Federal Register with an opportunity for the public to request reevaluation of the finding.

In South Carolina Electric and Gas Company and South Carolina Public Service Authority, (Virgil C. Summer Nuclear Station, Unit 1), CLI-81-14, 13 NRC 862 (1980) the Commission explains how this procedure is consistent with its statutory mandate:

A finding that significant changes have occurred must precede a formal request for the Attorney General's advice in any statutory antitrust review. Congress made it abundantly clear that absent such a finding there is to be no antitrust review [hearing] at the operating license stage. That Congressional directive may not be circumvented by expanding a petition for significant changes into a proceeding with all the attributes of a full-fledged hearing.

Id. at 873.

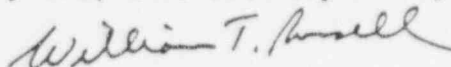
ACC charges that the NRC is somehow seeking "approval of the 1995 Finding on rehearing" and that this "process would violate Rule 40 of the Federal Rules of Appellate Procedure." ACC Request at 8. ACC entirely misses the point of this proceeding. The NRC has not sought rehearing of the court's vacatur order. To the contrary, the NRC is following the direction laid down by the court by conducting further proceedings in light of Cajun Electric.

ACC describes a March 19, 1995, FERC Notice of Proposed Rulemaking (Transmission NOPR) and asserts that this transmission NOPR will allow Entergy to recover monopoly profits. These objections are not properly placed before the NRC. ACC may wish to comment in the FERC rulemaking and avail itself of other legal remedies. However, ACC's comments have no bearing on the NRC's no significant change finding.

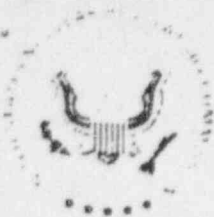
III. Conclusion

Requesters ask that I reverse my finding of no significant antitrust changes dated April 5, 1995. I have elaborated on and attempted to clarify the issues raised by the requesters but am denying their requests for reevaluation.

Dated at Rockville, Maryland, this 30th day of May 1995.



William T. Russell, Director
Office of Nuclear Reactor Regulation



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

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AUG 21 1995

Entergy Operations, Inc.
ATTN: John R. McGaha, Vice President -
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P.O. Box 220
St. Francisville, Louisiana 70775

SUBJECT: SYSTEMATIC ASSESSMENT OF LICENSEE PERFORMANCE (SALP) REPORT

Enclosed for your review is the SALP Report for the River Bend Station, for the period January 30, 1994, through July 29, 1995. A public meeting to discuss this report with you and your staff has been scheduled at the River Bend Training Center Auditorium on September 21, 1995, at 10 a.m. (CDT). During this meeting you are encouraged and expected to candidly comment on our report. Although this meeting is a forum between Entergy Operations Inc. and the NRC, it will be open to observation by members of the public and other interested parties.

In accordance with the NRC policy, I have reviewed the recommendations of the SALP Board and concur with the rating and views. Improved performance was noted in all functional areas, sufficient to result in improved grades in three of the four SALP functional areas from your last assessment. Superior performance was observed in the Plant Support area and good performance was observed in the Maintenance, Operations, and Engineering areas.

The superior performance in the Plant Support area was achieved through significant improvements in the radiological controls program by the efforts of nearly all departments and in the security program. You are challenged to continue this high level of performance through improvements during the next refueling outage, particularly in the radiological controls area. Good performance was achieved during this period in the functional areas of Maintenance and Engineering as a result of your efforts to improve the material condition of the station and reduce the engineering, modification, and maintenance backlogs. However, challenges remain to improve the content of work packages, procedures, engineering evaluations and design documentation. Performance in the Operations functional area continued to be assessed as being good. Although improved performance by operators contributed to a long continuous run, continued effort is needed to reduce operator errors and improve the quality of procedures.

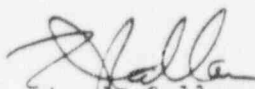
The effective assessment and implementation of your Near- and Long-Term Performance Improvement Programs were significant contributors to your improved performance at the River Bend Station. Increased accountability for identifying and correcting problems was observed throughout your organization in all functional areas. We are also encouraged by your plans to continue the use of self-assessments to identify areas for improvement in your programs and processes.

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In accordance with Section 2.790 of the NRC's "Rules of Practice," a copy of this letter and the SALP report will be placed in the NRC Public Document Room.

Should you have any questions or comments, I would be pleased to discuss them with you. While no written response is required to the SALP report, if you wish, you may provide written comments within 30 days of the public SALP meeting.

Sincerely,



L. J. Callan
Regional Administrator

Docket: 50-458
License: NPF-47

Enclosure:
SALP Report 50-458/95-99

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RIVER BEND STATION
SYSTEMATIC ASSESSMENT OF LICENSEE PERFORMANCE (SALP)
Report 50-458/95-99

I. BACKGROUND

The SALP Board convened on August 2, 1995, to assess the nuclear safety performance of River Bend Station for the period January 30, 1994, through July 29, 1995. The Board was conducted in accordance with Management Directive 8.6, "Systematic Assessment of Licensee Performance." The Board members included: J. E. Dyer (Board Chairperson), Director, Division of Reactor Projects; K. E. Brockman, Deputy Director, Division of Reactor Safety; D. D. Chamberlain, Deputy Director, Division of Radiation Safety and Safeguards; and W. D. Beckner, Director, Project Directorate IV-1, Office of Nuclear Reactor Regulation. This assessment was reviewed and approved by the Regional Administrator.

Functional Areas and Ratings

	<u>Current</u>	<u>Previous</u>
Plant Operations	2	2
Maintenance	2	3
Engineering	2	3
Plant Support	1	2

II. PLANT OPERATIONS

Overall safety performance in operations continued to be good. Significant changes were made to the organization, programs, and plant material condition to improve performance. Improved operator performance and material condition resulted in a continuous run during the last 7 months of the SALP period. Despite these improvements, procedure quality and operator errors still created challenges to plant operations. Operators generally responded well to these challenges, and training programs provided excellent support. Self-assessment and corrective actions contributed to improving performance.

Early in the assessment period, the licensee made several management changes to strengthen the organization and implemented performance improvement plans to address several long-standing operational problems. Management has communicated performance expectations to the staff and held personnel accountable for their actions. Additionally, outages were extended to correct long-standing hardware problems, and a work management center was established to reduce operator challenges and distractions. The overall quality of procedures improved during the evaluation period, but operators often continued to work around, rather than correct, inadequate procedures. For example, operators recently used an alternative means to control system configuration to fill the low pressure core spray system because the system operating procedure was inadequate for the circumstances. Recent management attention was focused to redirect procedure upgrade efforts to achieve more timely results.

Control room operators were alert and usually responded well to plant challenges, but operator lapses during the conduct of the more routine activities caused problems. Early in the evaluation period, material problems frequently challenged the operators during both operating and shutdown conditions and the response was generally prompt and effective. More recently, plant material conditions have improved, and operator errors have caused most plant challenges. For example, poor operator communications and self checking during a surveillance test contributed to the last reactor scram, and an operator lapse damaged the Division III emergency diesel generator. In addition, poor operator communications contributed to the inadvertent transfer of operational controls to the remote shutdown panel during a non-routine preventive maintenance task. System configuration and clearance tagging errors occurred early in the evaluation period and corrective actions were implemented to improve performance.

Operator training was generally effective and contributed to safe operations. The licensed operator initial examination results were excellent and the requalification inspection results indicated a strong ongoing training program. However, training deficiencies appeared to contribute to a weak operator response to a complicated reactor scram caused by a false high reactor vessel level.

Licensee self-assessment and corrective action programs improved the overall plant operations. In addition to the performance improvement plans, internal self-assessments and peer reviews provided meaningful feedback on performance. Corrective action program reviews were thorough but did not always provide a timely review of operational concerns. Operator recognition and identification of deficient plant conditions improved during the SALP period.

The performance rating is a Category 2 in the Plant Operations area.

III. MAINTENANCE

Overall, safety performance in the maintenance area improved during this evaluation period and was considered good. Management improvement plans initiated at the end of the previous SALP period began to show anticipated improvements. Long-standing equipment problems were resolved. The skills and dedication of the various crafts personnel continued to be a strength and helped decrease the corrective maintenance backlog. Work scheduling and accomplishment were significantly improved, but problems were still identified with the technical content of some work packages, surveillance procedures, and drawings.

Management focus to improve the maintenance area was evident. Material condition and programmatic improvements could be directly attributed to the initiatives implemented throughout this period. Management support and expectations were clearly communicated and individual performance and accountability were required from all levels of the organization.

Activities in both the corrective and preventive maintenance areas showed improved performance. Extended maintenance outages were undertaken to permanently fix the recirculation pump seals, upgrade the reactor water cleanup seals, add new instrument air compressors, and repair the leakage in the control rod drive piping. This reduced emergent maintenance on problem components facilitated improved scheduling of activities and allowed resources to focus on other maintenance backlogs. The reduction in the maintenance backlogs improved the material condition of the plant and resulted in fewer instances of equipment-required work arounds. Adverse impacts from maintenance activities on plant operations were fewer and less significant.

The quality of testing and maintenance procedures still requires additional attention. The procedure and drawing upgrade efforts have not yet produced the desired results to support maintenance. Initial efforts to validate the technical adequacy of the procedures were completed, but the schedule for efforts to improve the usability of the procedures has been delayed. Management recognized this problem and has initiated actions to redirect program activities and improve performance. Problems with the technical adequacy of maintenance work packages also resulted in several operational challenges. Examples included the inadequate postmaintenance testing of an emergency diesel generator, inadvertent isolation of reactor core isolation cooling, and inappropriate transfer of operational controls to the remote shutdown panel.

During the performance period, the various components of the maintenance staff demonstrated a developing sense of ownership and self-accountability. A questioning attitude by maintenance personnel identified deficient conditions and precluded several potential problem situations. A preventive maintenance self-assessment effectively identified areas for improvement and additional self-assessments were planned of the maintenance area.

The performance rating is Category 2 in the Maintenance area.

IV. ENGINEERING

Overall, safety performance in engineering improved during this SALP period and was considered good. The licensee exhibited excellent management oversight in the establishment of many new initiatives and programs directed toward correcting identified weaknesses. Engineering efforts were focused on resolving long-standing problems and improving the reliability and material condition of the plant. The system engineering organization has undergone considerable change and now provides strong support for operation of the plant. The management expectations of system and design engineers have been made clear and personnel are held accountable for performance.

The engineering organization generally provided good resolution of technical issues. The staff focused on improving equipment performance, reliability, and availability, expending considerable effort to decrease the evaluations and modifications backlog. The condition report process was well implemented and engineering was focused on a usable and effective corrective action

program. Engineering effectively reduced recurrent problems and personnel errors. Substantial progress was made during the SALP period to upgrade the plant Technical Specifications to the Improved Standard Technical Specifications.

Design modification products were generally sound, of good technical quality, and showed good safety focus. However, design engineering performance was mixed when conducting engineering evaluations. Examples include incomplete and untimely operability assessments in support of a scram discharge volume vent and drain valve operating sequence problem, loss of the charcoal filter heater in the fuel building vent system, diesel generator air start low pressure logic, and a nonconforming secondary containment boundary door. Historic and current design problems continue to be identified, and the design engineers continue to be challenged by the lack of retrievable design basis information.

Generally, the system engineers provided good support to operations and maintenance that demonstrated improved ownership and knowledge of their systems. System engineers were knowledgeable and cognizant of systems and performance, exhibited positive safety awareness and good problem recognition, and usually performed good operability support and evaluations.

The engineering organization self-assessment activities were good as demonstrated by identifying the need for and implementing changes to the systems engineer program, changes to the process for conducting safety reviews under 10 CFR 50.59, evaluation of the inservice testing program, and efforts to update the plant drawings.

The performance rating is Category 2 in the Engineering area.

V. PLANT SUPPORT

Performance in the Plant Support area improved substantially over the assessment period, with a generally high level of performance achieved in most areas during the last several months of the period. Management demonstrated a particularly strong commitment to improved performance in the radiological controls area which consisted of activities related to radiation protection, chemistry, radioactive waste management, radiological environmental monitoring, and transportation of radioactive materials.

Housekeeping and plant material condition improvements and worker support for the ALARA (as low as reasonably achievable) program were strong contributors to the overall improvements in radiological controls. The ALARA program was strengthened by changes implemented during the assessment period that provided specific guidance in work packages, assigned work priorities for radiation protection planners, and implemented the early involvement of ALARA planners during work package development. Person-rem exposure reflected a decreasing trend with overall exposure for 1995 on track to be below a challenging goal established for the year. An effective radioactive waste minimization program was being implemented with excellent results achieved. However, challenges

remain to continue the improving trend and demonstrate a high level of performance during the next refueling outage, particularly in the radiological controls area.

Performance in the emergency preparedness area continued to be generally strong with management support evident. An effective relationship with offsite emergency response organizations was maintained. Performance during emergency response exercises was generally strong, with comprehensive exercise scenarios that allowed for an effective evaluation of emergency response capabilities.

Significant improvement was noted in management oversight of security operations with a steady improvement in performance noted. Compensatory posting for identified problems was minimized because of excellent maintenance support. Improvements were noted in implementing procedures and the maintenance of card readers and vital area doors. Security events were properly recorded and reported to the NRC. Some weaknesses were noted in the Access Authorization Program with limited documentation of background screening files, independent verification of background investigation screening records, and the verification of activities during periods of unemployment.

Implementation of the fire protection program improved during the assessment period, with effective management involvement and good design engineering support. Significant progress was made in resolving long-standing issues in the fire protection area with regard to safe shutdown and fire hazard analyses. Problems noted with transient combustible material storage and the adequacy of preventive maintenance of emergency lighting were effectively addressed. A significant challenge still exists with a final resolution of Thermo-Lag fire barrier issues. Steady improvement in housekeeping occurred during the assessment period with housekeeping practices considered to be excellent at the end of the period.

Self-assessment was considered a strength in the plant support area, with comprehensive audits, surveillances, and assessments being performed. Problems were generally being self-identified and corrective actions were being effectively implemented.

The performance rating is Category 1 in the Plant Support area.