

RELATED CORRESPONDENCE

October 12, 2004

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

October 13, 2004 (7:41AM)

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of:

Louisiana Energy Services, L.P.

(National Enrichment Facility)

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Docket No. 70-3103-ML

ASLBP No. 04-826-01-ML

APPLICANT'S OBJECTIONS AND RESPONSES TO DOCUMENT REQUESTS
FROM NUCLEAR INFORMATION AND RESOURCE SERVICE AND PUBLIC CITIZEN

On September 9, 2004, Petitioners, Nuclear Information and Resource Service and Public Citizen ("NIRS/PC") served interrogatories and document requests on Applicant Louisiana Energy Services, L.P. ("LES").¹ In a response dated September 23, 2004, LES replied to the NIRS/PC interrogatories.² Herein, LES replies to the NIRS/PC document requests.

¹ "Interrogatories and Document Request on Behalf of Petitioners Nuclear Information and Resource Service and Public Citizen To Applicant Louisiana Energy Services, L.P.," September 9, 2004.

² "Applicant's Objections and Responses to Interrogatories From Nuclear Information and Resource Service and Public Citizen," September 23, 2004 ("LES Responses to NIRS/PC Interrogatories").

DOCUMENT REQUESTS

1. *Please provide all documents identified or described in response to any of the foregoing interrogatories.*

RESPONSE:

All documents requested or otherwise identified in the NIRS/PC interrogatories are addressed in the LES response thereto. They are either the subject of objection(s), have been, and/or are being provided by LES. See LES Responses to NIRS/PC Interrogatories in its entirety.

2. *Please provide an organization chart showing the structure of Urenco including all its subsidiaries, affiliates, and any other entity in which it has an interest by country worldwide.*

RESPONSE:

LES objects to this question on the grounds that it (1) seeks information that is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding; (2) seeks information that is outside the scope of any admitted NIRS/PC contention; (3) is unduly broad and burdensome; and (4) is vague and ambiguous in its use of the phrase "in which it has an interest." In addition, NIRS/PC has not demonstrated that the requested document/chart could not have been obtained from another source and is not otherwise publicly available. Notwithstanding, and without waiving these objections, LES will endeavor to obtain publicly available information responsive to this request and provide it to NIRS/PC.

3. *Please provide annual reports for Urenco for each year for the last ten years.*

RESPONSE:

LES objects to this request for the same reasons set forth in Response to Document Request 2, *supra*, which are incorporated by reference in this response.

Notwithstanding, and without waiving these objections, LES directs NIRS/PC to <http://www.urenco.com> and information contained on the website regarding annual reports for the years 2000 through and including 2003.

4. *Please provide annual reports for LES from its inception to the most recent.*

RESPONSE:

LES objects to this request because it is not relevant or related to a specific contention admitted to this proceeding. In addition, NIRS/PC has not demonstrated that the requested document cannot be obtained from another source and is not otherwise publicly available. Notwithstanding, and without waiving these objections, LES notes that all such reports filed with the state of Delaware are publicly available.

5. *Please provide documents explaining the relationship of the LES subsidiary referred to on ER p. 1.0-1 (bottom), which is engaged in the business of trading in industrial revenue bonds to LES and the current application.*

RESPONSE:

LES objects to this question on the grounds that it (1) seeks information that is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding, and (2) seeks information that is outside the scope of any admitted NIRS/PC contention. Notwithstanding, and without waiving these objections, LES notes that information relevant to this document request, as it relates to industrial revenue bonds, has been provided by LES to NRC in response to the agency's requests for additional information ("RAIs") and is otherwise publicly available. See NEF Letter to NRC re Role of Lea County, New Mexico, in the Possession, Construction and Operation of the NEF, January 9, 2004 (ML040330957); NEF Letter to NRC re Response to Request Concerning Financial and Partnership Information in the License Application, February 24, 2004 (ML040760184); and NEF Letter to NRC re Response

to NRC RAI Concerning the Lea County, New Mexico Industrial Revenue Bonds, May 10, 2004 (ML041380194). In addition, information regarding industrial revenue bonds is publicly available in New Mexico.

6. *Please provide documentation of the history of Urenco, including its subsidiaries and affiliates, in the management of enrichment and related facilities worldwide.*

RESPONSE:

LES objects to this question on the grounds that it (1) seeks information that is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding; (2) seeks information that is outside the scope of any admitted NIRS/PC contention;³ (3) is unduly broad and burdensome (in that it inquires about the "history of Urenco") and (4) is vague, ambiguous, and confusing with respect to its use of the phrases (a) "the history of Urenco" and (b) "the management of enrichment and related facilities worldwide." Notwithstanding, and without waiving these objections, LES directs NIRS/PC to <http://www.urenco.com> and information contained on the website.

7. *Please provide, without limitation, documentation of all investigations, indictments, complaints, or reports of investigations, done by regulatory agencies in any country or international regulatory agencies involving in any way the operation of nuclear fuel cycle facilities owned or operated by Urenco or any affiliate or subsidiary of Urenco.*

RESPONSE:

LES objects to this question on the grounds that it (1) seeks information that is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding;⁴ (2)

³ Specifically, the requested information goes to the purported issue of management integrity that was the subject of NIRS/PC proposed contention NIRS/PC EC-8/TC-5 and rejected by the Licensing Board in this proceeding. See *Louisiana Energy Services, L.P.* (National Enrichment Facility), LBP-04-14, 60 NRC ____ (July 19, 2004) (slip op.), at 30-31.

⁴ See note 3 *supra*.

seeks information that is outside the scope of any admitted NIRS/PC contention; and (3) is unduly broad and burdensome.

8. *Please provide, without limitation, documentation of all investigations, indictments, complaints, or reports of investigations, done by regulatory agencies in any country involving in any way any officer, executive, or employee of Urenco or any affiliate, subsidiary, or contractor working for Urenco, related to the misuse or loss of nuclear materials or technology.*

RESPONSE:

LES objects to this request for the same reasons set forth in Response to Document Request 7, *supra*, which are incorporated by reference in this response.

9. *Please provide documents concerning the role played by Urenco, its subsidiaries, affiliates, officers, executives, employees, or contractors in the provision of nuclear fuel cycle products or related technology or equipment, or plans for such technology or equipment to any personnel in violation of Urenco policies or rules with regard to information security.*

RESPONSE:

LES objects to this request for the same reasons set forth in Response to Document Requests 7 and 8, *supra*, which are incorporated by reference in this response.

10. *Please provide documents concerning any proposed enrichment facilities anywhere (other than the Homer, LA facility) sponsored or proposed by Urenco or any of its subsidiaries, affiliates or partners that have been rejected by regulatory or other governmental authorities over the course of the last ten years.*

RESPONSE:

LES objects to this question on the grounds that it (1) seeks information that is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding; (2) seeks information that is outside the scope of any admitted NIRS/PC contention; and (3) is unduly broad and burdensome. Notwithstanding, and without waiving these objections, LES is unaware that Urenco or any of its subsidiaries, affiliates, or partners have sponsored or proposed

enrichment facilities anywhere (other than the Homer, LA facility) that have been rejected by regulatory or other governmental authorities.

11. *Please provide documents showing the causes of the closure of any nuclear fuel cycle facilities (including, but limited to enrichment facilities) owned or operated by Urenco or any of its subsidiaries, affiliates or partners, that have been closed in the last ten years.*

RESPONSE:

LES objects to this request for the same reasons set forth in Response to Document Request 10, *supra*, which are incorporated by reference in this response.

12. *Please provide copies of every prospectus involving, in whole or in part, the financing of any nuclear fuel cycle facility being financed or refinanced by Urenco or any of its subsidiaries or partners over the last ten years.*

RESPONSE:

LES objects to this request for the same reasons set forth in Response to Document Request 10, *supra*, which are incorporated by reference in this response.

13. *Please provide documentation showing whether any third world countries (or major investors from any third world countries) including but not limited to Iran, Pakistan, Iraq, Saudi Arabia or North Korea, have significant investments in Urenco, its subsidiaries or affiliates, or its contractors on nuclear fuel cycle projects or investments.*

RESPONSE:

LES objects to this request for the same reasons set forth in Response to Document Request 10, *supra*, which are incorporated by reference in this response.

14. *Please provide documentation for each of the forecasts described in ER 1.1.2 (ER p. 1.1-4). This documentation should include but not be limited to the data set supporting the forecast, the calculation of the forecast (e.g., the regression analysis), the spreadsheet or other similar form for manipulating the data to arrive at the forecast with all the data contained in any such spreadsheet (including, e.g., formulas, other sheets containing data or references, etc.) as necessary to allow the replication of the forecast.*

RESPONSE:

Information responsive to this request will be provided to NIRS/PC no later than Friday, October 15, 2004.

15. *Please refer to ER p.1.1-5, paragraph beginning, "In the U.S." Please provide all documents concerning the assertion presented in the first sentence of that paragraph with respect to the relicensing of US nuclear power plants.*

RESPONSE:

LES objects to this request on the grounds that it (1) seeks information that is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding; (2) seeks information that is outside the scope of any admitted NIRS/PC contention. Specifically, NIRS/PC withdrew "relicensing" as one of the bases for its "need" contention. See "Supplement to Petition to Intervene on Behalf of Nuclear Information and Resource Service and Public Citizen" (May 27, 2004), at 3.

16. *Please refer to ER p. 1.1-18, top two lines. Please provide documents concerning the "forecast."*

RESPONSE:

LES responds to this request in the same manner as that set forth in Response to Document Request 14, *supra*, which is incorporated by reference.

17. *Please provide documentation of the current annual output levels of Urenco's European enrichment facilities, including but not limited to those at Gronau, Almelo, and Capenhurst.*

RESPONSE:

LES objects to this request for the same reasons set forth in Response to Document Request 10, *supra*, which are incorporated by reference in this response.

18. *Please refer to ER p. 1.1-9, paragraph beginning "The existing USEC." Please provide documentation supporting LES' "estimates" with respect to the economics of USEC's*

Paducah plant. Please also provide, if not already provided, a copy of reference Sterba, 1999.

RESPONSE:

This document request is addressed in Environmental Report, Reference USEC 2002a and Sterba 1999, both of which have been provided in our mandatory disclosures. See LES-02463 to LES-02468 (Sterba 1999); LES-02443 to LES-02462 (USEC 2002a).

19. *Please refer to ER p. 1.1-11, paragraph beginning "The Russian HEU." Please provide all documents showing or tending to show that the US-Russian HEU agreement will not be renewed after the current agreement expires.*

RESPONSE:

While LES believes that there is some uncertainty regarding the extension of the U.S.-Russian HEU agreement, the analysis of need for the facility -- as set forth in the application -- assumes that the supply of HEU from Russia will continue past 2013. See Section 1.1 of the Environmental Report.

20. *Please refer to ER p. 1.1-11. Please provide documentation of the claim that the renewal of the Russian HEU agreement is to be characterized as involving a "very high level of uncertainty."*

RESPONSE:

LES objects to this request for the same reasons set forth in Response to Document Request 19, *supra*, which are incorporated by reference in this response.

21. *Please refer to ER p. 1.1-11, last paragraph. Please provide documentation of the calculations involving the need to expend substantial SWUs to produce the blendstock.*

RESPONSE:

See Environmental Report, Figure 1.1-6 and spreadsheet, "LES HEU Blendstock Calculation.xls." The latter will be provided no later than Friday, October 15, 2004, via first-class mail.

22. *Please refer to ER p. 1.1-1, paragraph 1 ("The enriched uranium will be used primarily in . . ."). Please provide documentation showing the planned sales of the product of the proposed plant outside the United States as forecasted for each year of the plant's operating life.*

RESPONSE:

As set forth in the Environmental Report, the primary customer base is in the U.S. As stated in Section 1.1.2 of the NEF Environmental Report, the need for the NEF resides, in part, in the need for an additional secure and reliable domestic supplier of enrichment services to U.S. utilities. Thus, "documentation showing the planned sales of the product of the proposed plant outside the United States" is largely irrelevant to the "need" justification. As such, LES is aware of no relevant documentation responsive to this request.

23. *Please refer, e.g., to ER p. 1-1-21, middle paragraph. Please provide documentation of the claim that there is a demand by U.S. nuclear utilities for a second producer located in the U.S. Please provide this documentation by utility.*

RESPONSE:

LES has provided all documentation relevant to this issue, including the proprietary disclosures made as part of its mandatory disclosures of September 3, 2004. See LES-PRO-0001 through LES-PRO-00489. The subject of the request also is addressed in the depositions of Michael H. Schwartz (October 4, 2004), James P. Malone (September 29, 2004), and Daniel C. Poteralski (September 29, 2004). See also LES Mandatory Disclosures at LES-02796 to LES-02805; NEF Environmental Report § 1.1.2.

24. *Please refer to ER p. 1.1-3 paragraph beginning "Notwithstanding . . .". Please provide documentation of the claim that the Urenco centrifuge technology uses "approximately 50 times less energy" than the gas diffusion technology currently in use in the U.S.*

RESPONSE:

LES objects to this request on the grounds that it (1) seeks information that is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding; (2)

seeks information that is outside the scope of any admitted NIRS/PC contention; and (3) is unduly broad and burdensome (in that it inquires about both centrifuge and gas diffusion technology, generally). In addition, NIRS/PC has not demonstrated that any such "documentation" cannot be obtained from a publicly available source.

25. *Please refer to ER p. 1.1-3 paragraph beginning "Notwithstanding . . . ". Please provide documentation showing the cost of the energy used by the GDP plant at Paducah compared to the cost of the energy to be used at the Lea County facility.*

RESPONSE:

LES objects to this question on the grounds that it (1) seeks information that is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding; (2) seeks information that is outside the scope of any admitted NIRS/PC contention; and (3) is unduly broad and burdensome.

26. *Please provide documentation showing the estimated cost of production of the Lea County facility relative to the estimated cost of production at the proposed USEC centrifuge facility at Portsmouth, Ohio, such costs to include the cost of disposing of each plant's waste products.*

RESPONSE:

LES objects to this request for the same reasons set forth in Response to Document Request 25, *supra*, which are incorporated by reference in this response.

27. *Please refer to ER p. 1.1-11. If LES does not agree that the US-Russian HEU agreement involves the provision of LEU that requires no further expenditures of SWUs, please provide documentation of LES' position and the support for that position.*

RESPONSE:

As a threshold matter, LES states that this "document request" is tantamount to an interrogatory, as it does not request a specific document outside the posited question. To the extent it seeks to inquire about an LES position on the stated issue, it should be treated as an interrogatory. Notwithstanding, and without waiving these objections, LES states that to

produce LEU from HEU, it is necessary to expend SWUs. *See* Response to Document Request 21, *supra*, which is incorporated by reference herein, as well as the October 4, 2004, deposition of Michael H. Schwartz. *See also* LES Mandatory Disclosures at LES-02300 to LES-02302.

28. *Please provide documentation showing where LES intends to procure the UF₆ feedstock for the proposed plant including the identify the source nation(s).*

RESPONSE:

LES objects to this question on the grounds that it (1) seeks information that is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding; (2) seeks information that is outside the scope of any admitted NIRS/PC contention; and (3) is unduly broad and burdensome. The request simply is not relevant. Utility customers "procure" UF₆ feedstock, not LES. Therefore, LES does not intend to "procure" UF₆ feedstock.

29. *Please provide documentation of the claim that prices for enriched fuel will be lower for US utilities if the NM plant is built.*

RESPONSE:

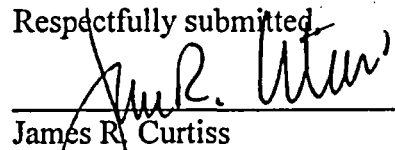
LES objects to this question on the grounds that it (1) seeks information that is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding; (2) seeks information that is outside the scope of any admitted NIRS/PC contention; and (3) is not relevant and lacks factual basis. Specifically, LES has never made "the claim that prices for enriched fuel will be lower for US utilities if the NM plant is built."

30. *Please provide a copy of the EEI Enrichment Handbook, Report NFC-90-001, published by the Edison Electric Institute (Nov. 1990), and cited in the List of References in the ER (p. 9.0-7).*

RESPONSE:

The requested document is being provided via first-class mail no later than
Wednesday, October 13, 2004.

Respectfully submitted,



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Dated at Washington, District of Columbia
this 12th day of October 2004

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	Docket No. 70-3103-ML
)	
Louisiana Energy Services, L.P.)	ASLBP No. 04-826-01-ML
)	
(National Enrichment Facility))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the "APPLICANT'S OBJECTIONS AND RESPONSES TO DOCUMENT REQUESTS FROM NUCLEAR INFORMATION AND RESOURCE SERVICE AND PUBLIC CITIZEN" in the captioned proceeding have been served on the following by e-mail service, designated by **, on October 12, 2004 as shown below. Additional service has been made by deposit in the United States mail, first class, this 12th day of October 2004.

Chairman Nils J. Diaz
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Washington, DC 20555-0001

Commissioner Edward McGaffigan, Jr.
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