

RAS 10551

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED 10/11/05

SERVED 10/11/05

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Paul B. Abramson
Dr. Charles N. Kelber

In the Matter of

LOUISIANA ENERGY SERVICES, L.P.

(National Enrichment Facility)

Docket No. 70-3103-ML

ASLBP No. 04-826-01-ML

October 11, 2005

MEMORANDUM AND ORDER

(Denying Motion to Strike Additional Portion of Pre-Filed Direct Testimony)

Upon consideration of the October 7, 2005 motion of applicant Louisiana Energy Services, L.P., (LES) to strike an additional portion of the prefiled direct testimony of Dr. Arjun Makhijani regarding deconversion strategy and the contingency factor, it is

ORDERED, that the LES October 7, 2005 motion to strike is denied, in that the testimony at issue is the factual predicate that supports Dr. Makhijani's position as to why the Cogema option does or does not meet the requirements of a plausible strategy, as he understands them. Additionally, although we previously have indicated that the issue of possible conversion to UO_2 is not a litigable matter in this proceeding, the reference to UO_2 in

this context is permissible as indicating a qualification or premise that clarifies the basis for his answer.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD*

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

October 11, 2005

* Copies of this order were sent this date by Internet e-mail transmission to counsel for (1) applicant LES; (2) intervenors Nuclear Information and Resource Service/Public Citizen; and (3) the NRC staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
LOUISIANA ENERGY SERVICES, L.P.) Docket No. 70-3103-ML
)
)
(National Enrichment Facility))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (DENYING MOTION TO STRIKE ADDITIONAL PORTION OF PRE-FILED DIRECT TESTIMONY) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
G. Paul Bollwerk, III, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Paul B. Abramson
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Charles N. Kelber
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Lisa B. Clark, Esq.
John T. Hull, Esq.
Margaret J. Bupp, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Tannis L. Fox, Esq.
Deputy General Counsel
Office of General Counsel
Ron Curry, Secretary
New Mexico Environment Department
1190 St. Francis Drive
Santa Fe, NM 87502-6110

Docket No. 70-3103-ML
LB MEMORANDUM AND ORDER (DENYING MOTION
TO STRIKE ADDITIONAL PORTION OF PRE-FILED
DIRECT TESTIMONY)

James R. Curtiss, Esq.
David A. Repka, Esq.
Martin J. O'Neill, Esq.
Amy C. Roma, Esq.
Winston & Strawn LLP
1700 K Street, NW
Washington, DC 20006

David M. Pato, Esq.
Stephen R. Farris, Esq.
Christopher D. Coppin, Esq.
Assistant Attorneys General
Glenn R. Smith, Esq.
Deputy Attorney General
Office of the New Mexico Attorney General
P.O. Box Drawer 1508
Santa Fe, NM 87504-1508

Lindsay A. Lovejoy, Jr.
618 Paseo de Peralta, Unit B
Santa Fe, NM 87501

Lisa A. Campagna, Esq.
Assistant General Counsel
Westinghouse Electric Company LLC
P.O. Box 355
Pittsburgh, PA 15230-0355

John W. Lawrence, Esq.
Louisiana Energy Services, L.P.
2600 Virginia Ave., NW, Suite 610
Washington, DC 20037

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 11th day of October 2005