

March 1, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
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LOUISIANA ENERGY SERVICES, L.P.)	Docket No. 70-3103
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(National Enrichment Facility))	ASLBP No. 04-826-01-ML
)	

NRC STAFF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW
CONCERNING CLARIFYING INFORMATION RELATING TO
THE COST ESTIMATE OF DECONVERSION

I INTRODUCTION

These findings and rulings address newly submitted testimony and evidence with respect to updated and clarifying information on the cost of cylinder management submitted by the license applicant, Louisiana Energy Services, L.P. (LES).

II PROCEDURAL BACKGROUND

2.1 The Board hereby adopts the procedural background set forth in its decision concerning NIRS/PC Contentions EC-3/TC-1, EC-5/TC-2, EC-6/TC-3, and EC-4.

2.2 At the close of the evidentiary hearing on contested issues, held in Rockville, MD from Monday October 24, 2005, through Thursday, October 27, 2005, the Board held open the possibility of presentation of further testimony and evidence on the issues of cylinder management and debt service for decommissioning funding. On December 29, 2005, the parties filed testimony concerning both issues, followed by rebuttal testimony on January 12, 2006.

2.3 On February 13, 2006, an evidentiary hearing was held in Rockville, Maryland. LES presented testimony from Rod Krich; the Staff presented testimony from Timothy Johnson, Jennifer Mayer, Craig Dean, and John Collier; and intervenors Nuclear Information and Research Service and Public Citizen (NIRS/PC) presented testimony from Dr. Arjun Makhijani.

2.4 These proposed findings of fact and conclusion of law present the Licensing Board's additional findings of fact with respect to the newly submitted testimony and evidence presented at the February 2006 hearing.

III FINDINGS OF FACT

3.1 LES presented testimony from one witness, Rod Krich, Vice President of Licensing, Safety, and Nuclear Engineering for LES. "Supplemental Prefiled Direct Testimony of Rod Krich on Behalf of Louisiana Energy Services, L.P. Regarding Cost of Cylinder Management and Cost of Capital Issues," December 29, 2005 ("Krich Supplemental Direct," Tr. 3279); "Supplemental Prefiled Rebuttal Testimony of Rod Krich on Behalf of Louisiana Energy Services, L.P. Regarding Cost of Cylinder Management and Cost of Capital Issues," January 13, 2006 ("Krich Supplemental Rebuttal," Tr. 3281). Mr. Krich provided prior testimony related to the decommissioning cost estimate, and the Board's conclusions regarding his qualifications are included in our previous findings.

3.2 The Staff presented testimony from a panel of four witnesses. "NRC Staff Prefiled Testimony Concerning Clarifying Information Relating to Cost Estimate of Deconversion," December 30, 2005 ("Staff Clarifying Direct," Tr. 3411); "NRC Staff Prefiled Rebuttal Testimony Concerning Clarifying Information Relating to the Cost Estimate of Deconversion," January 12, 2006 ("Staff Clarifying Rebuttal," Tr. 3411). These witnesses were: Timothy C. Johnson, Jennifer Mayer, Craig Dean, and John Collier. Mr. Johnson, Ms. Mayer, and Mr. Dean provided prior testimony related to the decommissioning cost estimate, and the Board's conclusions regarding their qualifications are included in our previous findings.

3.3 John Collier is a consultant with ICF Consulting. He assisted the NRC Staff in evaluating LES's evaluation of the cost of capital associated with the construction of a private deconversion facility. He has a B.A. in Economics from the University of Chicago and an M.B.A. in Finance from the University of Chicago Graduate School of Business. He has over 15 years of experience in NRC financial assurance programs, financial analysis, and cost estimation. He is the lead financial consultant on ICF's financial advisory support contract with the NRC. He has provided regulatory and economic support for the development, implementation, and analysis of a wide variety of financial assurance programs, including those of the NRC and other federal agencies. Based on the above, the Board finds that Staff witness John Collier is well qualified as an expert on the matters regarding the cost of capital.

3.5 NIRS/PC presented the testimony of one witness, Dr. Arjun Makhijani. "Revised Prefiled Direct Testimony of Dr. Arjun Makhijani in Support of NIRS/PC Contentions EC-3/TC-1, EC-5/TC-2, and EC-6/TC-3 Concerning LES's Deconversion Strategy and Cost Estimate (Costs of Capital and Cylinder Management)," January 13, 2006 ("Makhijani Revised Direct," Tr. 3492); "Revised Prefiled Rebuttal Testimony of Dr. Arjun Makhijani in Support of NIRS/PC Contentions EC-3/TC-1, EC-5/TC-2, and EC-6/TC-3 Concerning LES's Deconversion Strategy and Cost Estimate (Costs of Capital and Cylinder Management)," February 1, 2006 ("Makhijani Revised Rebuttal," Tr. 3492). Dr. Makhijani provided prior testimony related to the decommissioning cost estimate, and the Board's conclusions regarding his qualifications are included in our previous findings.

3.6 LES has committed to an additional \$0.60 per kgU to address the cost of cylinder management. LES Exhibit 118. LES's figure of \$0.60 per kgU is supported by a letter received from Cameco, Corp. confirming that \$0.60 per kgU would be adequate to cover the costs of cylinder management, including either washing and/or re-certifying the cylinders or cleaning the cylinders to free-release standards. LES Exhibit 123. Cameco, which provides

cylinder washing and re-certification services to third-party customers, states that it charges \$0.29 per kgU to wash and re-certify cylinders, and that it believes that \$0.60 per kgU would be sufficient to clean cylinders to Canadian free-release standards. *Id.* The Canadian free-release standard is more rigorous than the U.S. free-release standard. Tr. 3471. Cleaning cylinders to free-release standards (U.S.) may require sandblasting in addition to washing. Tr. 3479.

3.7 LES may continuously reuse the DUF₆ cylinders for storing and/or transporting radioactive materials during the life of the NEF. LES Exhibit 118; *see also* Krich Supplemental Direct at 4-5; Tr. 3279. In that case, the cost of cylinder management will be an operational expense, except for any cylinders left at the end of the life of the facility. LES Exhibit 118.

3.8 If the deconversion facility is not constructed until after the operational life of the NEF, all of the DUF₆ tails will be processed following the end of the operational life of the NEF. Staff Clarifying Direct at 4; Tr. 3411. In this case, the cylinders would not be available for reuse by LES, and all of the costs associated with washing and/or re-certifying the cylinders would be decommissioning costs, rather than operating costs. *Id.* Because the market for washed and/or re-certified containers at the end of the operational life of the NEF is uncertain, the cost basis for cylinder management will have to be updated through the planned adjustments to the decommissioning funding plan. Tr. 3469.

3.9 Based on the above, the Board finds that by adding an additional \$0.60 per kgU to its decommissioning cost estimate, LES has adequately provided for the cost of cylinder management.

IV CONCLUSION

The foregoing represents the NRC Staff's "Proposed Findings of Fact and Conclusions of Law Concerning Clarifying Information Relating to the Cost Estimate of Deconversion".

Respectfully Submitted,

/RA/

Lisa B. Clark
Margaret J. Bupp
Counsel for NRC Staff

Dated at Rockville, Maryland
this 1st day of March, 2006

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW CONCERNING CLARIFYING INFORMATION RELATING TO THE COST ESTIMATE OF DECONVERSION" in the above-captioned proceedings have been served on the following by deposit in the United States mail; through deposit in the Nuclear Regulatory Commission's internal system as indicated by an asterisk (*), and by electronic mail as indicated by a double asterisk (**) on this 1st day of March, 2006.

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