

March 17, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

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

I. INTRODUCTION

In accordance with the Board's Orders of January 11, 2006¹ and February 16, 2006², the Staff files the following reply findings to the proposed findings of fact and conclusions of law filed by Nuclear Information and Resource Service and Public Citizen (NIRS/PC)³ regarding the clarifying information regarding the cost of capital and cylinder management presented during the evidentiary hearing conducted on February 13, 2006.

II. FINDINGS OF FACT

2.1 NIRS/PC argues that the Staff underestimated the cost of capital associated with the construction of a deconversion facility because the calculations in the Staff's spreadsheet, Staff Exhibit 48, are premised on the \$88 million estimated capital cost is based on 2004 prices.

¹ *Memorandum and Order* (Schedule for Supplemental Proposed Findings of Fact and Conclusions of Law; Modification of Date for Prehearing Conference).

² *Memorandum and Order* (Post-Hearing Administrative Matters).

³ "Proposed Findings of Fact and Conclusions of Law Submitted on Behalf of Intervenors Nuclear Information and Resource Service and Public Citizen Based Upon Evidence Taken on February 13, 2006 (Cost of Capital, Cylinder Management)," February 28, 2006 ("NIRS/PC Findings").

According to NIRS/PC, the Staff should have escalated the cost to 2012 prices, when construction was posited to begin, to account for inflation. NIRS/PC Findings at ¶¶61. However, as explained by the Staff's expert, the spreadsheet did not escalate the capital cost for inflation because its analytical goal was not to predict nominal dollar figures, as NIRS/PC incorrectly suggests, but to evaluate the adequacy of revenues relative to costs. Tr. 3457-58. If the staff's spreadsheet had escalated costs at the assumed annual inflation rate of 3% through 2012, the analysis would have indicated a higher annual debt service payment, but then the spreadsheet would also have had to escalate factors related to the generation of revenue, such as the prices charged by the deconversion facility, by the same 3% annual change in purchasing power for the same 2004-2012 period. However, the conclusions of the analysis would not have differed, if the spreadsheet had escalated both the cost (e.g., costs of construction, licensing, and engineering) and the revenue figures to reflect changing price levels by the same 3%. As Judge Abramson observed, the numbers would not have changed in relation to each other, because everything would have been escalated at an equal rate. Tr. 3458.

2.2 NIRS/PC argues that the staff's spreadsheet, Staff Exhibit 48, incorrectly escalates LES's proposed \$0.40 per kgU cost of capital to account for inflation. NIRS/PC Findings at ¶¶62. Specifically, NIRS/PC claims that the cost should be considered fixed because it will be in the nature of a mortgage payment, i.e., a fixed payment over the period of the loan. *Id.* However, as is evident by the record in this proceeding, the Staff considered that the cost of capital will be recovered by the deconversion facility by virtue of the cost it will charge LES for its services. Tr. 3269, 3459-60. Based on this approach, it was appropriate to assume that the price charged to LES by the deconversion facility would increase by the inflation rate, even if some of the facility's costs of production (e.g., debt service payments) are fixed and do not escalate. Therefore, the staff appropriately escalated each cost recovery factor assumed to

contribute to price, including both the LES \$0.40/kgU cost of capital figure and the LES \$0.80/kgU cost of construction/licensing figure. Because actual debt service payments are assumed to be "locked in" at the time the debt is incurred, but the associated cost recovery factors are free to escalate with the general level of prices, the debt service burden of the deconversion facility will become increasingly affordable. This is consistent with the financial concept that holders of fixed-rate debts realize economic gains during times of rising inflation (i.e., because they pay their debt back with cheaper dollars).

III. CONCLUSION

The foregoing represents the NRC Staff's reply findings to the proposed findings of fact and conclusions of law filed by NIRS/PC regarding the clarifying information regarding the cost of capital and cylinder management.

Respectfully submitted,

/RA/

Lisa B. Clark
Counsel for NRC Staff

Dated at Rocivilly, Maryland
this 17th day of March, 2006

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S REPLY FINDINGS OF FACT AND CONCLUSIONS OF LAW CONCERNING 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 17th day March, 2006.

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