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UNITED STATES OF AMERICA  
BEFORE THE  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of )  
 )  
GULF STATES UTILITIES ) Docket No. 50-458-01A  
COMPANY, et al. )  
 ) ASLBP No. 93-680  
River Bend Station, Unit 1 )

CAJUN ELECTRIC POWER COOPERATIVE, INC.'S  
MOTION TO COMPEL RESPONSES TO INTERROGATORIES  
AND PRODUCTION OF DOCUMENTS

Cajun Electric Power Cooperative, Inc. ("Cajun"), pursuant to 10 C.F.R. § 2.740(f) (1994), hereby files this Motion to Compel Gulf States Utilities Company ("GSU") to respond to interrogatories and produce documents in response to Cajun's Interrogatory Nos., 2-6, 2-14, 2-15 and 2-18, and Document Request Nos. 1 through 7, 11, and 13 through 15, and states as follows:

I. INTRODUCTION

On August 22, 1994, Cajun requested that GSU and its affiliated companies, including Entergy Corporation and Entergy Operations, Inc. ("EOI"), produce certain documents, in accordance with Section 2.741 of the Commission's Regulations. On September 8, 1994, Cajun submitted a second set of initial interrogatories to GSU and its affiliated companies, in accordance with Section 2.740b of the Commission's Regulations.

On September 22, 1994, Cajun received GSU's responses to Cajun's document requests and second set of interrogatories.

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(Attached as Appendix A.) Cajun immediately contacted GSU's attorneys and reviewed the documents provided by GSU at its counsel's offices on September 23, 1994. Copies of documents requested by Cajun were received by Cajun on September 27, 1994. This Motion to Compel timely follows the receipt of GSU's responses to Cajun's document requests and interrogatories.

Interrogatories

Cajun seeks responses to interrogatories 2-6, 2-14, 2-15 and 2-18.

Cajun Interrogatory

2-6 Identify employees of GSU, its agents or consultants who met with Entergy, its employees, EOI, EOI employees, their contractors, or any tier of subcontractor, with regard to any safety matter, stating the place and date of the meeting, the names of all individuals present, a detailed description of the specific safety matters discussed, the resolution of such safety matters, the contribution of Cajun to the discussion or resolution of such safety matters, and any follow-up by GSU with regard to such safety matters. Identify all documents prepared by GSU associated with such issues.

GSU Response

Since EOI has operated River Bend, the Respondents are not aware of any such meetings.

Argument

Entergy and GSU consummated their merger on December 31, 1993. EOI has operated River Bend since January 1, 1994. GSU's answer implies that in preparation for completion of the merger and for EOI to undertake the responsibility for the operation of River Bend no meetings pertaining to the safety of River Bend occurred. They also imply that Entergy undertook the merger with GSU based upon not a single meeting between GSU, its agents or consultants and Entergy, its employees, EOI, EOI employees, their contractors, or any tier of subcontractor, with regard to any safety matter at River Bend.

GSU's answer is non-responsive. Simply put, it is inconceivable that an entity that had never operated a particular licensed nuclear facility could undertake such operation without meeting with the current operator to discuss matters of safety. It is also difficult to believe prudent management would undertake a billion dollar merger without conducting a single meeting to discuss the safety of the single largest generation asset being acquired. GSU should be required to answer the question.

Cajun Interrogatory

2-14 Identify the River Bend cost management and regulatory reports made available by EOI to GSU to assure safe operation of the facility. Describe how each such report is necessary to assure the safety of the facility.

GSU Response

The Respondents are not aware of any such reports which are necessary to assure the safety of the facility.

Argument

The River Bend Station Operating Agreement, between Entergy Operations, Inc. (Company) and Gulf State Utilities Company (Gulf States), states in relevant part, as follows:

Company shall provide Gulf States with data and assistance as may be requested by Gulf States to satisfactorily discharge, as co-owner of River Bend and agent of Cajun, its responsibilities with regard to River Bend, including its responsibilities to its securities holders, to Cajun, to regulatory authorities and others.

Clearly, GSU is entitled to obtain information from EOI under the River Bend Station Operating Agreement, and like Cajun, requires safety information on River Bend to discharge its legal duties and to comply with the terms of licenses and the requirements of the NRC for Licensees. Unless GSU now takes the position that it has no responsibility with respect to safety, and in fact seeks no information from EOI and receives none, GSU's answer is nonresponsive.



Cajun Interrogatory

2-15 Identify the Institute for Nuclear Power Operation ("INPO") meetings GSU is presently permitted to attend and identify the INPO documents to which GSU presently has access.

GSU Response

GSU has the same entitlement to attend INPO meetings and access to INPO documents as Cajun.

Argument

The request in Interrogatory number 2-15 to "Identify" requires a specific enumeration of the requested information not a general response of the rights of GSU as compared with others.

Cajun Interrogatory

2-18 Describe the circumstances, if any, which would cause Entergy to provide GSU's share of the River Bend operating costs (including costs associated with safe shutdown) should it be requested by EOI pursuant to the Guarantee Agreement.

GSU Response

Since Entergy is not required by the Guarantee Agreement to provide GSU's share of the River Bend operating costs, the premise of the question is incorrect and no response can be made.

Argument

The answer is nonresponsive. The question called for GSU to describe circumstances, if any, which "would cause" Entergy to provide GSU's share of the River Bend operating costs (including costs associated with safe shutdown) should it be requested by EOI pursuant to the Guarantee Agreement. The question did not ask for an analysis of Entergy's legal obligation. Rather it sought a discussion of that which "would cause" a particular action. The question, therefore, is far broader than GSU has answered. GSU should be required to answer the question as written.

Document Production

Cajun's motion to compel with respect to Cajun's document requests will be addressed in two groups: Requests 1-7 and Requests 11-15.

Cajun's Requests 1-7 and GSU's responses are as follows:

1. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend

Litigation or the bankruptcy of GSU on the operation of River Bend.

GSU Response

Other than references contained in the documents produced in Response to Request No. 36, the Respondents are not aware of any specific documents responsive to this request.

2. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU on filling planned or needed staff positions at both the River Bend plant and GSU, Entergy or EOI offices.

GSU Response

Other than references contained in the documents produced in Response to Request No. 36, the Respondents are not aware of any specific documents responsive to this request.

3. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU on implementation of training program plans and commitments.

GSU Response

Other than references contained in the documents produced in Response to Request No. 36, the Respondents are not aware of any specific documents responsive to this request.

4. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU on scheduled plant maintenance tasks, including implementation of preventive maintenance programs.

GSU Response

Other than references contained in the documents produced in Response to Request No. 36, the Respondents are not aware of any specific documents responsive to this request.

5. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU on timely completion of scheduled plant design changes and modifications affecting safety.

GSU Response

Other than references contained in the documents produced in Response to Request No. 36, the Respondents are not aware of any specific documents responsive to this request.

6. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU on procurement of new and replacement parts.

GSU Response

Other than references contained in the documents produced in Response to Request No. 36, the Respondents are

not aware of any specific documents responsive to this request.

7. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU on management and quality assurance oversight functions.

GSU Response

Other than references contained in the documents produced in Response to Request No. 36, the Respondents are not aware of any specific documents responsive to this request.

Argument

According to the documents GSU provided in response to Cajun Document Requests 1-7, GSU has not produced a single document since 1987 pertaining to the effect of bankruptcy or litigation risk on: the operation of River Bend (request No. 1), River Bend Staffing needs (Request No. 2), GSU training program plans and commitments (Request No. 3), scheduled plant maintenance tasks, including implementation of preventative maintenance programs (Request No. 4), scheduled plant design changes and modification affecting safety (Request No. 5), procurement of new and replacement parts (Request No. 6) and management and quality assurance oversight functions (Request No. 7).

GSU's response would indicate that not a single piece of paper exists at GSU that ever reflected a moment's consideration of these issues from the Chairman of the Board to

the CEO, and on down. That we find implausible. GSU has been under the threat of bankruptcy and potentially bankruptcy inducing litigation for years. To never have considered the subject or have that consideration reach a piece of paper is simply incredible. GSU should be compelled to respond.

Cajun's Requests 11, and 13-15 and GSU's responses are as follows:

11. Please provide all documents related to the financial exposure GSU experiences as a result of the River Bend Litigation.

GSU Response

Please see the documents produced in response to Request No. 27.

13. Please provide all documents which relate to the funding of River Bend operations, by GSU or otherwise, in the event of a determination adverse to GSU in the River Bend Litigation or in the bankruptcy of GSU.

GSU Response

Please see the documents produced in response to Request No. 27.

14. Please provide all documents related to the operation and maintenance of River Bend, and the funding of such operation and maintenance in the event of a Cajun bankruptcy with Cajun ceasing to make payments to GSU under the Cajun/GSU Joint Ownership Participation and Operating Agreement.

GSU Response

Please see the documents produced in response to Request No. 27.

15. Please provide all documents related to the impact on GSU's, Entergy's and EOI's financial condition in the event of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU.

GSU Response

Please see the documents produced in response to Request No. 27.

Argument

GSU's response posits that no document exist within its control, other than annual or quarterly reports, that address:

- the financial exposure GSU experiences as a result of the River Bend Litigation (Request No. 11);
- funding of River Bend operations, by GSU or otherwise, in the event of a determination adverse to GSU in the River Bend Litigation or in the bankruptcy of GSU (Request No. 13);
- operation and maintenance of River Bend, and the funding of such operation and maintenance in the event of a Cajun bankruptcy with Cajun ceasing to make payments to GSU under the Cajun/GSU Joint Ownership Participation and Operating Agreement (Request No. 14); and
- impact on GSU's, Entergy's and EOI's financial condition in the event of a determination adverse to

GSU in the River Bend Litigation or the bankruptcy of GSU (Request No. 15).

This would indicate that GSU has produced not a single document that analyzed two of the most significant financial threats to its survival and possibly to the operation of River Bend. This is simply incredible. GSU has not conducted the type of search this inquiry demands. To assert that no study, not a single notation, exists on this subject is not plausible. GSU should be ordered to respond fully to Cajun Requests 11, 13-15.

#### CONCLUSION

Based on the foregoing, Cajun Electric Power Cooperative, Inc., respectfully requests that the Atomic Safety and Licensing Board issue an order against GSU compelling the production of responsive documents and answers to interrogatories, as indicated in the body of the Motion, or, in the alternative, allow Cajun follow-up discovery requests on these items.

Dated: October 3, 1994

Respectfully submitted,



James D. Pembroke  
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Michael R. Postar

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## APPENDIX A

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	Docket No. 50-458-OLA
Gulf States Utilities Co., <u>et al.</u>	)	ASLBP No. 93-680
(River Bend Station, Unit 1)	)	

GULF STATES UTILITIES COMPANY'S RESPONSES TO CAJUN'S FIRST  
REQUEST FOR PRODUCTION OF DOCUMENTS DATED AUGUST 22, 1994

The Respondents, Gulf States Utilities Company ("Gulf States") and Entergy Operations, Inc. ("Entergy Operations") respond to the First Request for Production of Documents propounded by Cajun Electric Power Cooperative, Inc. ("Cajun") as follows. These responses were prepared under the supervision of Wenstrom E. Edge and Glenn E. Harder of Entergy Operations. GSU has interpreted these requests as not applying to pleadings, testimony, evidence or responses to discovery in this or other pending litigation between GSU and Cajun, nor to statutes or regulations. The documents are available for inspection and copying at the offices of Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502. Contact Mark Wetterhahn or Joseph Knotts at (202) 371-5700 to arrange a convenient time to inspect the documents.

These Responses are subject to the Objections filed by Gulf States dated September 6, 1994.

1. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU on the operation of River Bend.

RESPONSE: Other than references contained in the documents produced in Response to Request No. 36, the Respondents are not aware of any specific documents responsive to this request.

2. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU on filling planned or needed staff positions at both the River Bend plant and GSU, Entergy or EOI offices.

RESPONSE: Other than references contained in the documents produced in Response to Request No. 36, the Respondents are not aware of any specific documents responsive to this request.

3. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU on implementation of training program plans and commitments.

RESPONSE: Other than references contained in the documents produced in Response to Request No. 36, the Respondents are not aware of any specific documents responsive to this request.

4. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU on scheduled plant maintenance tasks, including implementation of preventive maintenance programs.

RESPONSE: Other than references contained in the documents produced in Response to Request No. 36, the Respondents are not aware of any specific documents responsive to this request.

5. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU on timely completion of scheduled plant design changes and modifications affecting safety.

RESPONSE: Other than references contained in the documents produced in Response to Request No. 36, the Respondents are not aware of any specific documents responsive to this request.

6. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU on procurement of new and replacement parts.

RESPONSE: Other than references contained in the documents produced in Response to Request No. 36, the Respondents are not aware of any specific documents responsive to this request.

7. Please provide all documents related to the effect of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU on management and quality assurance oversight functions.

RESPONSE: Other than references contained in the documents produced in Response to Request No. 36, the Respondents are not aware of any specific documents responsive to this request.

8. Please provide all documents related to the source(s) of funding of EOI.

RESPONSE: Copies of these documents will be produced for inspection and copying.

9. Please provide all documents related to Entergy's obligation, commitment or intention to provide or guarantee the funding of GSU in the event of a determination adverse to GSU in the River Bend Litigation or a GSU bankruptcy.

RESPONSE: The Respondents are not aware of any specific documents responsive to this request.

10. Please provide all documents related to the financial exposure GSU experiences as a result of the Public Utility Commission of Texas refusing to allow a return on all of GSU's investment in River Bend.

RESPONSE: Please see the documents produced in response to Request No. 27.

11. Please provide all documents related to the financial exposure GSU experiences as a result of the River Bend Litigation.

RESPONSE: Please see the documents produced in response to Request No. 27.

12. Please provide all GSU budgets and balance sheets, River Bend budgets and balance sheets and EOI budgets and balance sheets for the years 1991 to 1995, including but not limited to the budgets for River Bend O&M expenses.

RESPONSE: Copies of these documents will be produced for inspection and copying.

13. Please provide all documents which relate to the funding of River Bend operations, by GSU or otherwise, in the event of a determination adverse to GSU in the River Bend Litigation or in the bankruptcy of GSU.

RESPONSE: Please see the documents produced in response to Request No. 27.

14. Please provide all documents related to the operation and maintenance of River Bend, and the funding of such operation and maintenance in the event of a Cajun bankruptcy with Cajun ceasing to make payments to GSU under the Cajun/GSU Joint Ownership Participation and Operating Agreement.

RESPONSE: Please see the documents produced in response to Request No. 27.

15. Please provide all documents related to the impact on GSU's, Entergy's and EOI's financial condition in the event of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU.

RESPONSE: Please see the documents produced in response to Request No. 27.

16. Please provide all documents related to the actions you would take with regard to River Bend operation in the event of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU.

RESPONSE: The Respondents are not aware of any specific documents responsive to this request.

17. Please provide all documents related to the potential shutdown of River Bend in the event of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU.

RESPONSE: The Respondents are not aware of any specific documents responsive to this request.

18. Please provide all documents related to the specific actions which you would take with regard to the operation and maintenance of River Bend in the event of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU.

RESPONSE: The Respondents are not aware of any specific documents responsive to this request.

19. Please provide all documents which reflect how GSU would shut down River Bend in a non-emergency situation, including the shutdown scenario regarding which Edwin A. Lupberger and Donald C. Hintz testified at the Federal Energy Regulatory Commission GSU/Entergy merger proceedings.

RESPONSE: There is no specific "shutdown scenario" referred to by Lupberger or Hintz in the FERC transcript pages to which the request alludes. A copy of the Shutdown Procedure in use at River Bend will be produced for inspection and copying.

20. Please provide copies of all contracts EOI has entered into regarding River Bend.

RESPONSE: A copy of the Operating Agreement, Switchyard Agreement, Support Agreement and Guarantee Agreement will be produced for inspection and copying. All other contracts are for specific plant functions with various vendors and other local agencies, such as hospitals and have been entered into by Entergy Operations solely in its agency capacity. These can be made available at River Bend for inspection and copying.

21. Please provide copies of all agreements (including, but not limited to, operating agreements and guarantee agreements) which EOI has entered into with regard to other nuclear generating stations owned in whole or in part by Entergy or its subsidiaries.

RESPONSE: A copy of documents responsive to this request will be produced for inspection and copying. As with Request No. 20, there are numerous other contracts for specific plant functions with various vendors and other local agencies that have been entered into by Entergy Operations solely in its agency capacity. These can be made available at the various plants for inspection and copying.

22. Please provide a copy of EOI's corporate charter and by-laws.

RESPONSE: A copy of these documents will be produced for inspection and copying.

23. Please provide all documents related to EOI's ability to borrow money or obtain funding, external to Entergy Corporation or its subsidiaries, to allow EOI to operate and maintain River Bend.

RESPONSE: The Respondents are not aware of any specific documents responsive to this request.

24. Please provide all documents related to EOI's capital structure, capitalization, net worth, major assets and cash flow from 1991 to the present, and projected to December 31, 1995.

RESPONSE: A copy of these documents for 1991, 1992, 1993 and 1994 will be produced for inspection and copying. Cash flow projections for 1995 will also be produced for inspection and copying. These are the only projections available.

25. Please provide all contracts between EOI and Entergy Corporation.

RESPONSE: Please see Guarantee Agreements produced in response to Request No. 21 and documents produced in response to Request No. 8.

26. Please provide the current organizational charts of Entergy Corporation, GSU and EOI.

RESPONSE: A copy of these documents will be produced for inspection and copying.

27. Please provide copies of all annual and quarterly reports made by Entergy Corporation, GSU and EOI to the Securities and Exchange Commission.

RESPONSE: Copies of these documents from 1991 to present will be produced for inspection and copying.

28. Please provide all minutes of Board of Directors meetings or meetings of the officers of GSU, Entergy Corporation

and EOI which reflect any material, documents or discussions regarding the River Bend Litigation, the impact of a Cajun victory in the River Bend Litigation or the bankruptcy of GSU on: GSU's, Entergy Corporation's or EOI's financial situation; GSU's or EOI's ability to operate and maintain River Bend; the funding of GSU's or EOI's operation and maintenance of River Bend; the potential shut down of River Bend; and the procedures for the shut down of River Bend.

**RESPONSE:** The minutes of the Board of Directors or meetings of the officers of GSU, Entergy Corporation and EOI which reference the River Bend Litigation or the bankruptcy of GSU will be produced for inspection and copying.

29. Please provide copies of all documents submitted to the Boards of Directors or officers related to the matters referenced in Request for Production No. 28.

**RESPONSE:** These documents as they relate to Entergy were not retained other than presentations made by counsel regarding the status of litigation. As such, they are privileged from discovery as attorney-client communications and attorney work product. As to GSU, the only documents retained are attached to the GSU Board of Directors minutes of July 6, 1989 and are included in response to Request No. 28. There were no documents as they relate to EOI responsive to this request.

30. With regard to the "System Energy Resources, Inc., Merger Opportunities Study, River Bend Operations and Economic Analysis, May 21, 1990" ("Merger Study"), please provide all drafts of such study.

**RESPONSE:** No drafts of the Merger Study were retained.

31. Please provide all documents which comment upon or otherwise relate to the Merger Study.

**RESPONSE:** The Merger Study was based on an analysis of publicly available information, such as SEC reports, NRC correspondence and reports, FERC Form 1 data and other nuclear



industry reports. Copies of this material, drafts of the report, work papers or supporting documents were not retained.

32. Please provide all documents which relate to the Merger Study's conclusion on page 6 that the River Bend Litigation raises "very serious issues that should be weighed heavily in any decisions made" regarding merger opportunities between GSU and Entergy or between Entergy and Cajun.

RESPONSE: Please refer to response to Request No. 31.

33. Please provide all documents related to the Merger Study's conclusion, at page 35, that if GSU lost the River Bend Litigation and was required to make substantial payments to Cajun that it would declare bankruptcy.

RESPONSE: As stated on page 35 of the Merger Study, that conclusion was based on statements contained in certain documents Gulf States filed with the Securities and Exchange Commission under the Securities and Exchange Act of 1934. Copies of those documents were not retained; however, the 1991 Form 10-K filed by GSU contains statements relevant to this request. That document is being produced in response to Request No. 27.

34. Please provide all documents which relate to the Merger Study's conclusion at page 36 that if GSU were required to absorb Cajun's share of the River Bend O&M costs that "there can be no assurance that Gulf States' resources would be adequate."

RESPONSE: Please see response to Request No. 31.

35. Please provide all documents related to any analysis of all possible ownership arrangements for River Bend following the merger, prepared by Entergy, EOI or GSU, including, but not limited to, correspondence with the NRC or its staff.

RESPONSE: The Respondents are not aware of any specific documents responsive to this request.

36. Please provide copies of all documents submitted to the NRC Staff, and the NRC responses thereto, regarding the Cajun Litigation, a GSU bankruptcy and the operation and maintenance of River Bend in the event of a determination adverse to GSU in the River Bend Litigation or the bankruptcy of GSU.

RESPONSE: A copy of these documents will be produced for inspection and copying.

37. Please provide a copy of the NRC Management Report entitled "Power Reactor Ownership Arrangements and their Potential Impact on Safety," dated October 7, 1991.

RESPONSE: This document has not been found in Respondent's possession.

38. Please provide all documents which relate to whether EOI has adequate resources, without payments by GSU, to complete decommissioning of River Bend safely.

RESPONSE: The Respondents are not aware of any specific documents responsive to this request.

39. Please provide all documents which relate to or describe the financial control the Entergy Operating Committee, or Entergy Corporation exercises over GSU or River Bend.

RESPONSE: A copy of the System Agreement with amendments resulting from the merger will be produced for inspection and copying. This Agreement is still in the process of being approved by FERC.

40. Please provide all documents which describe the operational control the Entergy Operating Committee, or Entergy Corporation exercises over GSU or River Bend.

RESPONSE: Please see response to Request No. 39.

41. Please provide each organization chart for River Bend management from 1991 through present.

RESPONSE: A copy of these documents will be produced for inspection and copying.

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	Docket No. 50-458-OLA
GULF STATES UTILITIES COMPANY	)	
	)	Re: License Amendment
(River Bend Station, Unit 1)	)	(Transfer of Ownership and
	)	Control)

CERTIFICATE OF SERVICE

I hereby certify that copies of "Gulf States Utilities Company's Responses to Cajun's First Request for Production of Documents dated August 22, 1994" were served on the following, by first class mail, postage pre-paid, this 21st day of September, 1994:

B. Paul Cotter, Jr., Esq.  
Chairman, Atomic Safety  
and Licensing Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

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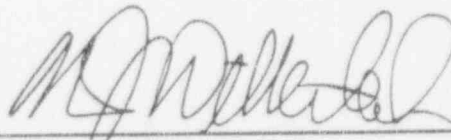
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Utilities Company

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
GULF STATES UTILITIES COMPANY ) Docket No. 50-458-OLA  
 ) ASLBP. No. 93-680  
(River Bend Station, Unit 1) )

GULF STATES UTILITIES COMPANY'S RESPONSES TO  
CAJUN ELECTRIC POWER COOPERATIVE, INC.'S SECOND  
SET OF INTERROGATORIES DATED SEPTEMBER 8, 1994

The Respondents, Gulf States Utilities Company ("Gulf States") and Entergy Operations, Inc. ("Entergy Operations") respond to the Second Set of Interrogatories propounded by Cajun Electric Power Cooperative, Inc. ("Cajun") as follows. Pursuant to General Instruction "E", the names of the individuals responsible for providing the responses follow each response.

These Responses are subject to the Objections filed by Gulf States dated September 6, 1994 insofar as they seek additional information as to Interrogatories to which objections have been made. See, for example, Interrogatories numbered 2-24 through 2-32. These responses are also subject to Gulf States Utilities Company's Objections to Cajun Electric Power Cooperative, Inc.'s Second Set of Interrogatories dated September 8, 1994.

2-1. Identify the name, profession, employer, and area of professional expertise of each person whom you expect to call as a witness, including any expert witness, at the NRC hearing on this matter.

- a. Identify the specific subject matter on which each witness is expected to testify at the hearing and the substance of the facts and opinions to which each witness is expected to testify and a summary of the grounds for each opinion.

OUNCAN, WEINBERG, MILLER  
& PENTROVE, P.C.

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- b. Identify all documents, and all pertinent pages or parts thereof, that each witness has read or been shown to date.
- c. Identify all documents and all pertinent pages or parts thereof, the witnesses will rely upon or will otherwise use for his/her testimony at the hearing.
- d. Identify the educational and professional qualifications and relevant experience of each witness identified above.

RESPONSE:

No decision has been made as to who will be called as witnesses at the hearing on this matter.

*not applicable*

- 2-2. Identify each and every safety issue, concern, or allegation (individually or collectively "matter") related to the operation of River Bend station that has ever been identified, or raised by GSU to Cajun, EOI or NRC (state which). For each such matter raised, identify the following:
- a. A detailed description of the nature of the issue, concern or allegation.
  - b. The manner in which the safety of the facility was asserted to be or could be affected.
  - c. Any rule, regulation, license or NRC guidance or licensee commitment which was violated or threatened to be violated.
  - d. The structure, system and/or component to which the issue related, giving all specifics such as system or component identifying mark or number shown on the component or relevant engineering drawings, figures, or diagrams.
  - e. The date on which the matter was discovered or identified.
  - f. The date the matter was reported to Cajun, EOI and/or the NRC, and the person to whom it was reported.
  - g. The persons discovering the matter.
  - h. The manner in which the matter was discovered or identified, e.g., plant tour, review or drawings or documents.

- i. The person reporting the matter to GSU, EOI and/or the NRC.
- j. The name of each and every person who gave further information, opinion, or conclusions concerning that matter to Cajun, GSU, EOI and/or the NRC, and a description of such communication and an identification of any written communication.
- k. Describe the resolution of the matter proposed by GSU or EOI and if such resolution was not deemed satisfactory by the NRC so state, describing why the resolution was unsatisfactory in relation to applicable rules and regulations of the NRC and the River Bend Operating License.
- l. If the issue is still pending, state the status of the matter.
- m. Identify all documents associated with each matter identified.

**RESPONSE:**

The NRC requires River Bend to submit reports or maintain records pursuant to Title 10, Chapter 1, of the Code of Federal Regulations. These include Part 21 notifications, Licensee Event Reports, condition reports, and Appendix B quality assurance records and reports. Reports to the NRC are available in the Public Document room of the NRC. Other reports or records are available to Cajun as a co-owner at the plant. GSU is not aware of any specific safety concern raised to Cajun or EOI that was not also shared with the NRC. In addition, employees and contractors of GSU have raised concerns through River Bend's Employee Concerns Program. Details of these concerns are maintained in confidence and cannot be made available for inspection.

H. W. Keiser



2-3. For each such GSU or EOI individual identified in Interrogatory 2-1, provide:

- a. Full name, address, telephone number, employer, employer's address, date of birth, education, employment experience, a description of all training in scientific and technical disciplines.
- b. A description of his expertise in the operation of nuclear power plants, including the areas of expertise claimed.
- c. An identification of the nuclear power plants at which such individual has been employed, been a consultant or provided consulting services, the dates on which those services were performed, the facility, the entity to which such services were provided and whether such individual had unescorted access at such facility.
- d. An identification of all NRC licenses held and the dates on which such licenses were active.

RESPONSE:

See response to Interrogatory No. 2-1.

*not applicable*

2-4. Identify every Cajun representative having unescorted access to the River Bend site since operation has begun. Provide the following information for each such person identified:

- a. Name, title, employer, education, training, professional or technical experience in nuclear power operation, dates on which individual had unescorted access, badge number, if known.
- b. Duties and responsibilities of such individual having unescorted access at the River Bend [sic], the dates on which such individual visited or worked at River Bend, any efforts exerted by such individual to seek out safety issues, the periods that the individual access [sic] the protected area, the restricted area, vital areas, and/or radiologically controlled areas.
- c. Any safety issues, concerns or allegations observed or identified by such individual and identify any documents associated with each.



RESPONSE:

The following Cajun representatives either currently have unescorted access or have had unescorted access. The dates for which they had unescorted access appear next to their names.

<u>Name</u>	<u>Dates</u>
Curran, Jr., W. L.	5-16-88 thru 9-9-94
Gore, J. D.	1-15-86 thru 6-28-89
Hall, G. E.	4-23-87
Johnson, L. G.	12-30-86 thru 11-24-93
Miller, J. M.	8-29-88 thru 8-16-91
Stuckey, W.	1-7-86 thru 11-22-88
Day, W. S.	12-16-88 thru present

The Respondents are unable to respond to the additional information requested in this interrogatory.

W. E. Edge

- 2-5. Identify the individuals association [sic] with Cajun who have had escorted access to the River Bend Station. For each such individual, state the dates on which they had escorted access, whether the escort was provided by Cajun or GSU or EOI, the nature of any safety-related matters or matters important to the safety (collectively "safety matters") which were discussed in the presence of such individuals, a description of the substantive way which such individuals contributed to identification of or discussion of safety matters. Identify all documents prepared by such individuals relating to their identification of safety issues, concerns or allegations.

RESPONSE:

A search for this information has revealed that it is retained for only three years and the records have not been computerized. Further, there have been approximately 20,000 separate instances of escorted access to River Bend in the last three years. The Respondents cannot reasonably be expected to identify each and

every instance of this access by individuals associated with Cajun. However, this information is available to Cajun at River Bend for inspection and copying.

W. E. Edge

- 2-6. Identify employees of GSU, its agents or consultants who met with Entergy, its employees, EOI, EOI employees, their contractors, or any tier of subcontractor, with regard to any safety matter, stating the place and date of the meeting, the names of all individuals present, a detailed description of the specific safety matters discussed, the resolution of such safety matters, the contribution of Cajun to the discussion or resolution of such safety matters, and any follow-up by GSU with regard to such safety matters. Identify all documents prepared by GSU associated with such issues.

RESPONSE:

Since EOI has operated River Bend, the Respondents are not aware of any such meetings.

H. W. Keiser

- 2-7. Identify all documents prepared by Cajun representatives reviewing the operation of River Bend relating to operation, safety, funding of safe operation or decommissioning of the unit.

RESPONSE:

Other than documents which may have been submitted by Cajun at the quarterly joint owner meetings, the Respondents are not aware of any specific documents responsive to this interrogatory.

H. W. Keiser

- 2-8. Identify each meeting with the NRC, its employees or agents relating to safety matters at which you were represented. For each such meeting, state the names of the NRC employees present, the date of the meetings, the subject matter of the meeting, the substantive contribution you made to the discussion of safety matters, if any, and the resolution of any such safety matters. Identify all documents prepared by you or the NRC associated with such meetings.

**RESPONSE:**

Meeting notices and minutes of meetings between the NRC and GSU and EOI are in the NRC's Public Document Room and are available for inspection and copying. Pursuant to 10 C.F.R. § 2.740(b)(1), Cajun is directed to the Public Document Room of the NRC for the response to this interrogatory.

H. W. Keiser

- 2-9. Describe each communication between you and the NRC employees or agents relating to substantive safety matters. For each such instance, state the names of the NRC employees with whom such communications occurred, state the date of the communication, state the subject matter of the communication, the substantive contribution you made to the communication of any safety matters, and the resolution of any such safety matters.

**RESPONSE:**

Approximately 7,000 documents have been identified in the NRC's Public Document Room as responsive to this interrogatory in NRC Docket No. 50-458 since the Operating License for River Bend was issued. Pursuant to 10 C.F.R. § 2.740(b)(1), Cajun is directed to the Public Document Room of the NRC for the response to this interrogatory.

H. W. Keiser

- 2-10. Describe any systematic plan or procedure for review by EOI or its consultants of safety matters arising at River Bend, identifying any document associated with such plan or procedure, the author of such document or plan, anyone reviewing or concurring in such document, when it was prepared, the dates of any amendments thereto, the dates on which it was [sic] implemented, and any safety matters evaluated, discovered or dispositioned in accordance with such procedure or plan.

RESPONSE:

The systematic plan or procedures for review by EOI of safety matters arising at River Bend are found in the following documents:

Nuclear Review Board ("NRB") R-OM-001

Facility Review Committee ("FRC") ADM-0002

Condition Report ("CR") RBNP-0030

Quality Assurance Procedure ("QAP") QAP-1.14

10 C.F.R. Part 21 RBNP-0026

Independent Safety Engineering Group ("ISEG") ISEG-13-001-008

The documents can be made available for inspection. Also, please see response to Interrogatory No. 2-2.

W. E. Edge

2-11. Describe how Cajun's access to River Bend or its access to information regarding the safe operation of River Bend has changed since EOI assumed responsibility for operation on December 31, 1993.

RESPONSE:

There has been no change in Cajun's access to River Bend or access to information regarding the safe operation of River Bend since EOI assumed responsibility for operation on December 31, 1993. Cajun continues to have access to River Bend and access to information regarding the safe operation of the facility.

H. W. Keiser

2-12. Identify the documents, records, and River Bend operational or safety data EOI needed from GSU to assure safe operation of the facility. Identify how each such document or communication would be utilized to assure safe operation of the facility.

RESPONSE:

As part of the transfer of operational responsibility to Entergy Operations, any and all documents necessary for the operation of River Bend have been turned over by Gulf States.

H. W. Keiser

- 2-13. Describe NRC requirements applicable to EOI related to its assuring the safe operation of River Bend, and identify how EOI presently meets such requirements.

RESPONSE:

The Atomic Energy Act; Title 10 C.F.R. Chapter I; the Updated Safety Analysis Report; and the Operating License including the technical specifications appended thereto. The operation of River Bend is currently governed by these requirements.

H. W. Keiser

- 2-14. Identify the River Bend cost management and regulatory reports made available by EOI to GSU to assure safe operation of the facility. Describe how each such report is necessary to assure the safety of the facility.

RESPONSE:

The Respondents are not aware of any such reports which are necessary to assure the safety of the facility.

H. W. Keiser

- 2-15. Identify the Institute for Nuclear Power Operation ("INPO") meetings GSU is presently permitted to attend and identify the INPO documents to which GSU presently has access.

RESPONSE:

GSU has the same entitlement to attend INPO meetings and access to INPO documents as Cajun.

H. W. Keiser

- 2-16. Define the exact differences in the operation of River Bend before and after the issuance of each of the disputed license amendments which has or could result in a

significant reduction in the margin of safety or in the level of reasonable assurance, of safety at River Bend.

RESPONSE:

None.

H. W. Keiser

- 2-17. Identify whether any NRC precedent exists for requiring a holding company to be responsible for the obligation to pay costs for safe operation of a commercial nuclear power plant in case a subsidiary which has been found to be financially qualified fails to make such payments.

RESPONSE:

The Respondents adopt the NRC Staff's response to GSU's Interrogatory No. 12.

*not applicable*

- 2-18. Describe the circumstances, if any, which would cause Entergy to provide GSU's share of the River Bend operating costs (including costs associated with safe shutdown) should it be requested by EOI pursuant to the Guarantee Agreement.

RESPONSE:

Since Entergy is not required by the Guarantee Agreement to provide GSU's share of the River Bend operating costs, the premise of the question is incorrect and no response can be made.

H. W. Keiser

- 2-19. State whether you are aware of any utility which owns or operates a licensed nuclear power plant which has operated or owned such facility when it was bankrupt or in bankruptcy proceedings and describe such circumstances.

RESPONSE:

The Respondents adopt the NRC Staff's response to GSU's Interrogatory No. 11.

*not applicable*

- 2-20. Identify whether any other public utility in the United States has been or is bankrupt, and for each such utility

whether the bankruptcy court has provided funds to permit it to operate its facilities, and describe such circumstances.

RESPONSE:

See response to Interrogatory No. 2-19.

*not applicable*

2-21. Identify any estimates you have made or that are available to you with regard to the safety risks associated with shutdown of River Bend, and any estimates of the change in risk as the result of EOI's operation of the facility.

RESPONSE:

No such estimates have been made by GSU or EOI with regard to River Bend.

*G. E. Harder*

2-22. State your estimate for the cost of safely shutting down the River Bend Station should it be necessary and the annual cost of keeping the facility in such a safety shutdown condition, considering separately the following alternative assumptions:

- a. The facility may at some point in the future resume operation.
- b. The facility is permanently shut down and awaiting decommissioning at some point in the future.

RESPONSE:

No such estimate has been made by GSU or EOI with regard to River Bend.

*G. E. Harder*

2-23. Identify the information that you and/or your law firms representing GSU with regard to the River Bend litigation have provided to GSU's auditors regarding the litigation and the evaluation of each as to the probability of Cajun's success in such litigation.



**RESPONSE:**

The information requested is privileged as attorney-client communication and attorney work product.

*not applicable*

2-24. With reference to your "response" to Cajun Interrogatory No. 1-8, please state specifically how River Bend operations would be funded, assuming GSU did not have the funds due to a determination adverse to GSU in the River Bend litigation or by the bankruptcy of GSU. Please explain your position.

**RESPONSE:**

While this interrogatory calls for speculation, it is expected that such funds could be available through rate relief in the appropriate jurisdictions, existing rates which would not be affected by the adverse determination or bankruptcy, and/or funds released by the bankruptcy court.

*G. E. Harder*

2-25. With reference to your "response" to Cajun Interrogatory No. 1-9, please describe in what manner Entergy Corporation would change its acquisition adjustment in the event of a determination adverse to GSU in the River Bend litigation or by the bankruptcy of GSU. Please explain your position.

**RESPONSE:**

The possibility of an adverse result in the litigation relating to Cajun represents a "preacquisition contingency". During the allocation period (which cannot exceed one year after GSU/Entergy merger) Entergy may determine that write-offs and/or losses would cause the reduction of the affected noncurrent assets and an increase of an equal amount in the acquisition adjustment of Entergy Corporation's consolidated financial statements, in



accordance with the purchase method of accounting for business combinations.

G. E. Harder

- 2-26. With reference to your "response" to Cajun Interrogatory No. 1-9, please explain your estimate of the "substantial write-offs" by GSU and the decline in shareholder equity, in the event of a determination adverse to GSU in the River Bend litigation or by the bankruptcy of GSU. Please explain your position.

RESPONSE:

If GSU was unable to earn a reasonable return on a major portion of its assets at River Bend, it might have to write off those assets. The write-off amount would be dependent on the amount of assets that were unable to earn a return. A net of tax write-off as of December 31, 1993, of up to \$314 million could be required.

G. E. Harder

- 2-27. With reference to your "response" to Cajun Interrogatory No. 1-9, please explain why EOI's financial condition would not be impacted in the event of a determination adverse to GSU in the River Bend litigation or by the bankruptcy of GSU. Please explain your position.

RESPONSE:

EOI operates River Bend at cost with funds provided directly by GSU and Cajun, so its financial condition would not be impacted.

G. E. Harder

- 2-28. With reference to your "response" to Cajun Interrogatory No. 1-10, please explain how EOI would safely operate the unit in the event of a determination adverse to GSU in the River Bend litigation or by the bankruptcy of GSU. Fully describe all actions to be taken by GSU, EOI, Entergy or another other [sic] affiliate or subsidiary which would permit EOI to carry out this responsibility. Please explain your position.

**RESPONSE:**

This responsibility would be carried out by Entergy Operations just as it presently carries out this responsibility with funds available from GSU and Cajun. There is no reason to expect that a determination adverse to GSU in the River Bend litigation or the bankruptcy of GSU would prevent GSU and Cajun from carrying out their responsibilities to provide the funds necessary to safely operate River Bend. Also, see response to Interrogatory No. 2-24.

G. E. Harder

2-29. With reference to your "response" to Cajun Interrogatory No. 1-11, please explain why "Gulf States anticipates" the funds necessary to run River Bend would be available in the event of a determination adverse to GSU in the River Bend litigation or by the bankruptcy of GSU. Please explain your position.

**RESPONSE:**

See response to Interrogatory No. 2-24.

G. E. Harder

2-30. With reference to your "response" to Cajun Interrogatory No. 1-11, please describe all of the sources of the funds which be [sic] available to run River Bend in the event of a determination adverse to GSU in the River Bend litigation or by the bankruptcy of GSU. Please explain your position.

**RESPONSE:**

See response to Interrogatory No. 2-24.

G. E. Harder

2-31. Please describe how your answer to the previous request changes, assuming the Texas Court of Appeals' decision on August 31, 1994, in the Texas litigation, remains final.

**RESPONSE:**

The answer would not change.

G. E. Harder

2-32. With reference to your "response" to Cajun Interrogatory No. 1-13, please describe all of the sources of the funds which will be available to EOI to shut down River Bend. Please explain your position.

RESPONSE:

As the co-owners of the plant, GSU and Cajun would be responsible for funding the shut down of River Bend. Also, see response to Interrogatory No. 2-24.

G. E. Harder

2-33. Please describe any authority EOI has to borrow money or obtain funding from Entergy Corporation or its subsidiaries for the operations of River Bend.

RESPONSE:

GSU and Cajun, not Entergy Operations, have financial responsibility for the operation of River Bend. Accordingly, Entergy Operations has no such authority.

G. E. Harder

2-34. Please state and describe all possible operational arrangements between GSU, EOI, Entergy, or other affiliates, and Cajun, considered by you for River Bend following the merger.

RESPONSE:

None, other than the existing arrangement.

H. W. Keiser

2-35. Please state your estimate of the total decommissioning costs for River Bend.

RESPONSE:

\$382.5 million - based on 1990 dollars. This estimate comes from the latest study performed in 1991.

G. E. Harder

2-36. Please state the amounts GSU has paid into the River Bend decommissioning trust fund to date.

RESPONSE:

\$16.6 million through June 30, 1994.

G. E. Harder

2-37. Please state the total amounts paid into the River Bend decommissioning trust fund to date.

RESPONSE:

Respondents only maintain records for GSU's River Bend Decommissioning Trust Fund.

G. E. Harder

2-38. Please state EOI's current liabilities and net worth.

RESPONSE:

This information is being provided in response to Cajun's Request for Production of Documents. See documents produced in response to Request No. 27.

G. E. Harder

2-39. Please state the sum of EOI's current net income, plus depreciation, depletion and amortization, as well as EOI's current total liabilities.

RESPONSE:

See response to Interrogatory No. 2-38.

G. E. Harder

2-40. Please state EOI's current net working capital and tangible net worth.

RESPONSE:

See response to Interrogatory No. 2-38.

G. E. Harder

2-41. Please state what percentage of EOI's assets are located in the United States.

RESPONSE:

One hundred percent (100%).

G. E. Harder

2-42. Please state Entergy Corporation's current liabilities and net worth.

RESPONSE:

See response to Interrogatory No. 2-38.

G. E. Harder

2-43. Please state the sum of Entergy Corporation's current net income, plus depreciation, depletion and amortization, as well as Entergy's current total liabilities.

RESPONSE:

See response to Interrogatory No. 2-38.

G. E. Harder

2-44. Please state Entergy Corporation's current net working capital and tangible net worth.

RESPONSE:

See response to Interrogatory No. 2-38.

G. E. Harder

2-45. Please state what percentage of Entergy Corporation's assets are located in the United States.

RESPONSE:

96.2% as of December 31, 1993.

G. E. Harder

2-46. Please state and explain whether EOI has adequate resources, without additional payments from GSU into the external trust fund to complete decommissioning of River Bend, and describe and explain such resources.

RESPONSE:

EOI has no responsibility for financing the decommissioning of River Bend. Cajun and GSU have this responsibility.

G. E. Harder

2-47. Please state whether Entergy Corporation would be willing to make additional payments into the River Bend external trust fund to complete decommissioning of River Bend, assuming GSU cannot. Please explain the basis for your answer.

RESPONSE:

Cajun and GSU have the financial and legal responsibility for the decommissioning of River Bend. We do not know of any realistic circumstances under which they would be unable to carry out this responsibility.

G. E. Harder

2-48. Assuming GSU declares bankruptcy, and Entergy states it is unwilling to fund the decommissioning costs of River Bend, please explain what assurance(s) the NRC has that decommissioning costs will be funded. Please state the basis for your answer.

RESPONSE:

Please see responses to Interrogatories Nos. 2-47 and 2-24.

G. E. Harder

STATE OF MISSISSIPPI

COUNTY OF Hinds

The preceding interrogatory responses were prepared under my direction and the matters and facts contained herein are true and correct to the best of my knowledge.

DATED this the 20th day of September, 1994.

H. W. Keiser

H. W. KEISER, Executive Vice  
President and Chief Operating  
Officer of Entergy Operations, Inc.

Sworn to and subscribed before me, the undersigned authority in and for the said county and state. Witness my signature and official seal of office on this the 20th day of September, 1994.

Janie P. Lee

NOTARY PUBLIC

My Commission Expires:

NOTARY PUBLIC STATE OF MISSISSIPPI AT LARGE

MY COMMISSION EXPIRES: August 10, 1997

~~BONDED THRU FIDELITYBANCORP, INC.~~

ING BOARD  
DOCKETED  
03 1994  
DOCKETING &  
SERVICE BRANCH  
No. 50-458-OLA  
License Amendment

Docket No. 50-458-OLA  
Re: License Amendment  
(Transfer of Ownership and  
Control)

I hereby certify that copies of "Gulf States Utilities Company's Responses to Cajun Electric Power Cooperative, Inc.'s Second Set of Interrogatories dated September 8, 1994" and "Gulf States Utilities Company's Objections to Cajun Electric Power Cooperative, Inc.'s Second Set of Interrogatories dated September 8, 1994" were both served on the following, by first class mail, postage pre-paid, this 22nd day of September, 1994:

Docketing and Services  
Branch  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

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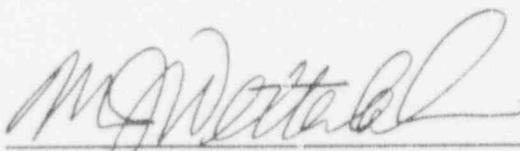
SEP 22 1994



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Counsel for Gulf States  
Utilities Company

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

In the Matter of )  
 )  
GULF STATES UTILITIES ) Docket No. 50-458-OLA  
COMPANY, et al. )  
 )  
(River Bend Station, Unit 1) )

CERTIFICATE OF SERVICE

I, Michael R. Postar, hereby certify that on this 3rd day of October 1994, I served on the following by hand or first class mail, postage pre-paid, copies of the CAJUN ELECTRIC POWER COOPERATIVE, INC.'S, MOTION TO COMPEL RESPONSES TO INTERROGATORIES AND PRODUCTION OF DOCUMENTS.

Samuel J. Chilk, Secretary  
Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike, Rm. 16 H1  
Rockville, MD 20852

Office of Commission Appellate  
Adjudication  
Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Richard F. Cole  
Atomic Safety & Licensing Board  
Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
B. Paul Cotter, Jr., Chairman  
Atomic Safety & Licensing Board  
Nuclear Regulatory Commission  
Washington, DC 20555

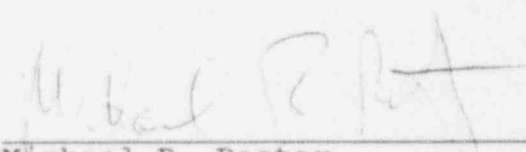
Docketing & Services Branch  
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Nuclear Regulatory Commission  
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