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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

LICENSEE'S REQUEST FOR BOARD APPROVAL
OF WRITTEN INTERROGATORIES TO BE
ANSWERED BY NRC PERSONNEL

I. Introduction

Pursuant to 10 C.F.R. § 2.720(h)(2)(ii), licensee, Gulf States Utilities Company ("Gulf States") requests that the Atomic Safety and Licensing Board require that the attached interrogatories, Gulf States Utilities Company's First Set of Interrogatories to the U.S. Nuclear Regulatory Commission Staff, be answered by NRC personnel with knowledge of the facts designated by the Executive Director for Operations. As discussed below, answers to the interrogatories are necessary to a proper decision in the proceeding and answers to the interrogatories are not reasonably obtainable from any other source.

II. Discussion

A. Legal Analysis

The NRC rules governing discovery involving parties, other than the NRC Staff, are modelled after the Federal Rules of Civil Procedure. See, e.g., Pennsylvania Power and Light Co. and Allegheny Elec. Cooperative, Inc. (Susquehanna Steam Elec. Station, Units 1 and 2), ALAB-613, 12 NRC 317, 322, n.6 (1980). Like their

judicial counterparts, the NRC rules minimize the involvement of the adjudicatory authority in discovery processes. Upon commencement of the discovery period, the Licensing Board's leave is not required to proceed with discovery, with the Board only getting involved in disputes among the parties.

Seeking discovery from the NRC Staff, however, is "on a different footing." Id. at 323. Because Commission regulations make Staff information and documents that are relevant to licensing proceedings routinely available in the NRC Public Document Room, it is contemplated that such information "should reasonably disclose the basis for the staff's position," and thereby reduce the need for formal discovery from the NRC Staff. Id. Reflecting this rationale, the NRC Rules of Practice limit discovery against the Staff, in part, by allowing parties to pose interrogatories to the Staff only "where the information is necessary to a proper decision in the case and not obtainable elsewhere." Id., citing NRC "Statement of General Policy and Procedure: Conduct of Proceedings for the Issuance of Construction Permits and Operating Licenses," 10 C.F.R. Part 2, App. A, IV(d). In addition, the Licensing Board's advance permission is needed before the NRC Staff can be required to answer a party's interrogatories.

Precedent defining the meaning of "necessary," as used in § 2.720(h)(~)(ii), does not require the party seeking answers to its interrogatories to "know what the staff's views are before it obtains them." Cleveland Elec. Illuminating Co. (Perry Nuclear

Power Plant, Units 1 & 2), LBP-82-117, 16 NRC 1955, 1957 (1982). Rather, interrogatories to the Staff seeking information that a party "'suspects' or believes may be helpful to it" are permissible. Id. It has been held that to make such foresight a prerequisite "would make a mockery of the discovery process." Id.

Furthermore, the Staff's "substantial expertise" in an area of inquiry, combined with its "responsibility to the public to assure public safety," makes it "necessary" for the Staff to respond to a party's interrogatories in that area of inquiry. See Perry, 16 NRC at 1957. For instance, in Perry, the intervenor requested the NRC Staff to answer a set of interrogatories allegedly relevant to hydrogen generation. The Licensing Board ruled that it was "necessary" for the Staff to do so because "[t]he staff has done extensive work in the hydrogen release area and its views about the subject are 'necessary' to a complete record in this context." Id.

B. Application to the Requested Interrogatories

The general interrogatories contained in the attachment relate to the identification of NRC Staff witnesses. Obviously, such information is solely within the knowledge of the NRC Staff and is not otherwise available to the licensee. Such information is necessary to prepare for the evidentiary hearing in this matter.

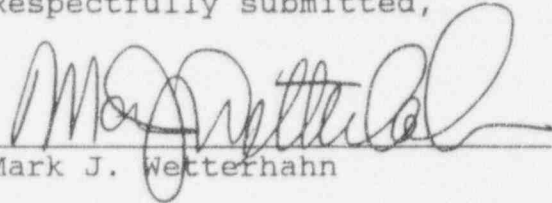
Specific interrogatories 1 - 7 relate to safety matters which may have been communicated to the NRC from Cajun, a comparison of Cajun's role in the safe operation of the facility

before and after the merger, and NRC's evaluation, a co-owner's access to INPO documents, and reaction to such safety issues. Such information, from the perspective of the NRC, would not be available to GSU from any other source. They are necessary to a determination of whether there has been a decrease in the margin of safety by permitting a comparison of Cajun's record and ability to raise safety issues prior to and after the merger. Interrogatories 8 - 15 seek to discover the NRC Staff's position as to the relationship between financial qualifications and safe operation of a facility and the actions that the NRC Staff has taken in circumstances where there was a potential or actual financial difficulties regarding one of the co-owners of a nuclear power plant arising. They also seek to determine the NRC Staff's position regarding financial qualifications of non-owner operators and licensing of parent and holding companies. These interrogatories are directly related to the admitted contention which attempts to link financial qualification issues to safe operation. Such information requested, particularly since it seeks the basis for Staff action, is unavailable to the licensee and would be extremely difficult, if not impossible, to compile from other sources, including information in the NRC's Public Document Room.

Conclusion

For the foregoing reasons, licensee requests that the Licensing Board direct that the attached interrogatories be answered by the NRC Staff.

Respectfully submitted,



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Attorneys for Gulf States
Utilities Company

Dated at Washington, D.C.
this 26th day of August, 1994

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

GULF STATES UTILITIES COMPANY'S
FIRST SET OF INTERROGATORIES TO THE
U.S. NUCLEAR REGULATORY COMMISSION STAFF

Gulf States Utilities Company ("GSU") hereby requests that the presiding Atomic Safety and Licensing Board require the Staff of the U.S. Nuclear Regulatory Commission ("NRC Staff") to respond to the following interrogatories.

INSTRUCTIONS AND DEFINITIONS

- A. Each interrogatory should be answered separately. The responses shall include all pertinent information known to the NRC, as defined below. All scientific and technical terms should be understood as being used in the context of the licensing and operation of present generation light-water commercial nuclear power plants in the United States and their regulation by the U.S. Nuclear Regulatory Commission ("NRC").
- B. Each interrogatory shall be answered fully, in writing, under oath or affirmation. To the extent that the NRC Staff does not have specific, complete, and accurate information with which to answer any interrogatory, it should so state, and the interrogatory should be answered to the extent information is

available, stating what efforts have been made to obtain the unknown information.

- C. Requests for the identification of documents should be answered by providing a list, organized by request number, identifying all documents responsive to the request.
- D. The word "document" as used herein means any written matter, whether produced, reproduced or stored on paper, cards, tapes, disks, belts, charts, film, computer storage devices or any other medium and shall include, without limitation, books, reports, studies, statements, speeches, notebooks, agreements, appointment calendars, working papers, manuals, memoranda, notes, procedures, orders, instructions, directions, records, correspondence, diaries, plans, diagrams, drawings, periodicals, lists, telephone logs, minutes, and photographs, and shall also include, without limitation, originals, copies (with or without notes or changes thereon) and drafts.
- E. "NRC" means all staff offices and program offices, including regional offices, and the Office of the Executive Director for Operations, the Commission, panels, boards, and committees and Commission Staff, (but not the Atomic Safety and Licensing Board Panel, Office of Commission Appellate Adjudication or any Commission Adjudicatory employee in this proceeding, as defined in 10 CFR Parts 1 and 2), their employees, agents, consultants, contractors or subcontractors in any tier,

including, but not limited to commercial entities, other government agencies, national laboratories, or universities.

- F. "Cajun" means in the context of this discovery request: Cajun Electric Power Cooperative, Inc., or any of its agents, employees, officers, partners, corporate parent, subsidiaries or affiliates, Members, consultants, contractors, technical advisors, representatives, counsel or other persons acting for or on behalf of all or any of them, or at their direction and control, or in concert with or assisting them -- whether paid or unpaid.
- G. The term "safe operation" shall include "safe shutdown."
- H. "Operation" shall include the period during startups, shutdowns, full or partial power operation, transients, accidents, hot and cold shutdown, surveillance, maintenance, operation of balance-of-plant, auxiliary and ancillary components and systems, transmission and distribution systems necessary for outgoing and incoming power, both normal and emergency, and all other ancillary functions such as engineering, quality assurance, security, and emergency planning necessary to meet NRC requirements, guidance and commitments.
- I. "River Bend" means the River Bend Station, Unit 1 as described in the Updated Final Safety Analysis Report and as licensed by the NRC.

- J. "EOI" means in the context of this discovery request: Entergy Operations, Inc., or any of its agents, employees, officers, partners, corporate parent, subsidiaries or affiliates (other than GSU), consultants, contractors, technical advisors, representatives or other persons acting for or on behalf of all or any of them, or at their direction and control, or in concert with or assisting them -- whether paid or unpaid.
- K. "GSU" means in the context of this discovery request: Gulf States Utilities Company, or any of its agents, employees, officers, partners, corporate parent, subsidiaries or affiliates (other than EOI), consultants, contractors, technical advisors, representatives or other persons acting for or on behalf of all or any of them, or at their direction and control, or in concert with or assisting them -- whether paid or unpaid.
- L. "Identify" when used in reference to a natural person means to set forth the following:
- a. full name;
 - b. present or last known residential address;
 - c. present or last known business address;
 - d. current or last employer;
 - e. title or position;
 - f. area of responsibility; and
 - g. office held in Cajun or business, professional, or other relationship with Cajun.

- M. "Identify" when used in reference to a document means to set forth the following:
1. its title;
 2. its type (e.g., letter, memorandum, calendar entry);
 3. its subject matter;
 4. its date;
 5. its author;
 6. its addressee;
 7. its recipient;
 8. its file designation or other identifying designation;
and
 9. its present location and present custodian.
- N. "Communication" means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).
- O. "Person" is defined as any natural person or any business, legal or governmental entity, partnership, corporation or association.
- P. "Concerning" means relating to, referring to, describing, evidencing or constituting.
- Q. The connectives "and" and "or" shall be construed either conjunctively or disjunctively so as to bring within the scope of these discovery requests any information that might otherwise be construed to be outside their scope.
- R. Wherever appropriate, the singular form of a word shall be interpreted in the plural, and vice versa, so as to bring

within the scope of these discovery requests any information that might otherwise be construed to be outside their scope.

S. If the NRC Staff objects to any interrogatory, in whole or in part, or seeks to withhold information because of the alleged proprietary or other nature of the data, please set forth all reasons and the underlying factual basis for the objection in sufficient detail to permit the Atomic Safety and Licensing Board to determine the validity of the objection.

T. These interrogatories shall be continuing in nature as required by 10 C.F.R. §§ 2.720(h)(2)(iv) and 2.740(e). Thus, any time the NRC Staff obtains information that renders any previous response incorrect or incomplete, or which indicates that a response was incorrect or incomplete when made, the NRC Staff must supplement its previous response. Such supplements should be provided in a timely fashion.

U. If the answer to any interrogatory below relies upon one or more calculations: (1) describe each calculation and identify any documents setting forth such calculation; (2) provide the name and location of each person who performed the calculation and the date the calculation was made; (3) describe each assumption made in each calculation, to include the value of and basis for each assumption; (4) describe each constant and variable in each calculation, to include the value and basis for each constant and the source of the data applied to each variable; define in English each term and symbol in each

equation or calculation; (5) provide the results of each calculation; and (6) explain in detail how each calculation provides a basis for the contention.

GENERAL INTERROGATORIES

- G-1. Identify the name, profession, employer, and area of professional expertise of each person whom the NRC Staff expects to call as a witness, including any expert witness, at the NRC hearing on this matter.
- G-2. 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.
- G-3. Identify all documents, and all pertinent pages or parts thereof, that each witness has read or been shown to date.
- G-4. Identify all documents and all pertinent pages or parts thereof, the witness will rely upon or will otherwise use for his/her testimony at the hearing.
- G-5. Identify the educational and professional qualifications and relevant experience of each witness identified in G-1, above.

SPECIFIC INTERROGATORIES

- 1. Identify each 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 Cajun to the NRC. For each such matter raised, identify the following:

- a. A detailed description of the nature of the matter.
- b. The manner in which the safety of the facility was asserted to have been or could have been 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 matter 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 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 of drawings or documents.
- i. The person reporting the matter to the NRC.
- j. The name of each and every person who gave further information, opinion, or conclusions concerning the matter to 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.
1. If the matter is still pending, state the status of the matter.
2. Identify each and every meeting with the NRC, its employees or agents relating to safety matters at which Cajun was represented but GSU or EOI was not 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 of Cajun to the discussion of safety matters, if any, and the resolution of any such safety matters raised by Cajun.
3. Describe each communication between Cajun and the NRC employees or agents relating to substantive safety matters. For each communication, state the names of the Cajun and NRC employees between whom such communications occurred, state the date of the communication, state the subject matter of the communication, the substantive contribution of Cajun to the communication of any safety matters, and the resolution of any such safety matters. If Cajun was merely listed as receiving a copy of a communication which was sent or received by EOI or

GSU, such communication may be excluded from the scope of this response.

4. Describe any limitations in Cajun's access to River Bend or to information regarding safe operation which existed prior to December 31, 1993 of which the NRC is aware, and identify the NRC Staff members familiar with any such limitations.
5. 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, and identify the NRC Staff members familiar with any such changes.
6. Has the NRC identified any differences in the operation of River Bend between GSU and EOI which would adversely affect the margin of safety or the reasonable assurance of the public health and safety. If so, identify:
 - a. The quantitative or qualitative change in margin of safety or in the reasonable assurance standard;
 - b. The differences in operation which led to this conclusion;
 - c. The NRC individuals who made such observation or conclusion.
7. Has the NRC ever required that access to all INPO documents be given to a licensee which was merely a co-owner and had not been found to be technically qualified by the NRC. If so, identify:

- a. The facility;
 - b. The documents required to be provided;
 - c. The reasons for the NRC's actions;
 - d. The Staff member or members who are familiar with such events and decisions.
8. What means does the NRC Staff utilize to assure any financial difficulties or problems of a licensee or licensees of a commercial light-water nuclear power station do not affect the safe operation of such facility or facilities?
9. What remedies does the NRC Staff assert are available to it where the Staff has found that safe operation has been or could potentially be affected by financial issues?
10. If the NRC Staff has utilized such remedies in the past when it found that financial problems have affected or were potentially affecting safe operation, identify:
- a. The affected facility;
 - b. The licensee in question;
 - c. The date on which the financial issue arose and the nature of such financial issue;
 - d. All actions taken by the NRC Staff;
 - e. The results of such actions;
 - f. The present state of the matter;
 - g. The NRC Staff member or members who are familiar with events and decisions regarding such guarantees.

11. Has the Staff permitted any facility to operate or to hold an operating license after it had filed for bankruptcy protection? If so, identify:
 - a. The affected facility;
 - b. The licensee seeking such protection;
 - c. The date or dates on which such protection was sought;
 - d. The court having jurisdiction over the matter;
 - e. The nature of the financial difficulties which led to such filing;
 - f. A narrative account of the actions taken by the Staff before the court and otherwise to assure the safe operation of the facility;
 - g. A description of the action taken by the court to assure the availability of funds for safe operation;
 - h. The present status of the bankruptcy action;
 - i. The Staff member or members who are familiar with such matters.
12. Has the Staff ever required that a parent or holding company of a licensee owning or operating a light-water commercial nuclear power station or non-owner operating company guarantee the financial integrity of a licensee? If so, identify:
 - a. The affected facility;
 - b. The parent or holding company involved;
 - c. The entity for which such guarantee was needed;

- d. The circumstances which the Staff identified as making such guarantee necessary;
 - e. The Staff member or members who are familiar with events and decisions regarding such guarantee;
 - f. Whether and when such guarantee was executed and the language that the NRC considered to be necessary in such a guarantee;
 - g. The period for which the guarantee was made, if limited.
13. Has the Staff ever required that a parent or holding company of a licensee of a light-water commercial nuclear power station become a licensee of a facility. If so, identify:
- a. The affected facility;
 - b. The parent or holding company involved;
 - c. The circumstances which led to decision by the NRC Staff leading to the requirement;
 - d. The basis cited for such a requirement;
 - e. The circumstances of the holding or parent company becoming a licensee;
 - f. The Staff member or members who are familiar with such events and decisions.
14. Has the Staff ever required that a parent or holding company of a license or a non-owner operating company guarantee the payment of any judgments levied against a licensee of a light-water commercial nuclear power plant? If so, identify:
- a. The facility;

- b. The licensee and parent or holding company;
 - c. The basis for imposing the requirement for a guarantee;
 - d. The method for imposing such guarantee;
 - e. The date on which the requirement was imposed.
15. Has the Staff ever required an independent showing of financial qualifications by a non-owner operator of a light-water commercial nuclear power station where the owners of such facilities who were obligated to provide funding were electric utilities as defined in 10 C.F.R. § 50.2? If so, identify:
- a. The facility;
 - b. The licensee and parent or holding company;
 - c. The basis for imposing the requirement for a guarantee;
 - d. The method for imposing such guarantee;
 - e. The date on which the requirement was imposed.
 - f. The Staff member or members who are familiar with such events and decisions.

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USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

'94 AUG 26 P1:08

In the Matter of
GULF STATES UTILITIES COMPANY
(River Bend Station, Unit 1)

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

CERTIFICATE OF SERVICE

I, Mark J. Wetterhahn, hereby certify that on this 26th day of August, 1994, I served on the following, by first class mail, postage pre-paid, copies of:

1. Gulf States Utilities Company's First Request for the Production of Documents to the U.S. Nuclear Regulatory Commission's Executive Director for Operations
2. Licensee's Request for Board Approval of Written Interrogatories to be Answered by NRC Personnel
3. Gulf States Utilities Company's First Set of Interrogatories and Request for Production of Documents to Cajun Electric Power Cooperative, Inc.

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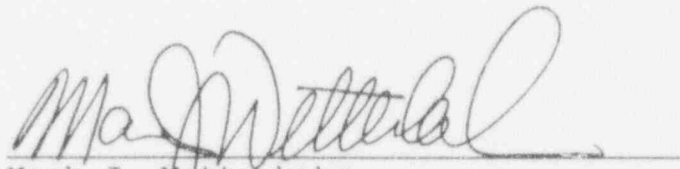
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August 26, 1994

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