

Stephen M. Irving

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February 3, 1984

U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
ATTENTION: SECTION LEADER
Anti-trust & Economic Analysis
Section, Site Analysis Branch
Office of Nuclear Reactor Regulation

RE: DOCKET NOS. 50-458 & 50-459
GSU Company & Cajun Electric
Power Cooperative; Receipt
of additional anti-trust
information; 49 FR 531

Gentlemen:

With regard to comments on the above matter due February 3, 1984, I am re-submitting my comments of April 18, 1980 and the NRC response thereto. If the NRC has still not seen the referenced information and considered the other issues raised in my letter, I would suggest it most appropriate to do so.

Sincerely,

Stephen M. Irving
Attorney at Law

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Public Law Utilities Group



One American Place, Suite 1601 Baton Rouge, Louisiana 70825 (504) 383-9970

Stephen M. Irving, Director

April 18, 1980

Mr. L.S. Rubenstein, Acting Chief
Light Water Reactor Branch No. 4
Division of Project Management
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

RE: Comments on Antitrust Review -
Riverbend Station No. 1, Docket
No. 50-458 - Proposed Purchase by
Cajun Electric Power Cooperative, Inc.

Dear Mr. Rubenstein:

This letter is being submitted as a comment on behalf of the Louisiana Consumer's League, Inc. relative to the above matter. Before proceeding with our comments I wish to point out to the Commission that the published notices of this action were inadequate in that all of those published locally omitted the statement as to the date by which comments were due. I have attached copies of the advertisements in which you will note that the last paragraph of the official notice was omitted. This has caused a delay in the transmittal of our comments.

Our organization has met with representatives of Cajun Electric Power Cooperative, Inc. and the cooperatives which own and participate in Cajun. All indications to us have been that Cajun is not becoming involved in the River Bend plant because it needs or even wants the project. The interest of Cajun is in concessions from Gulf States Utilities relative to transmission lines which the cooperatives feel are vital to their continued existence. It appears to us, based on statements by cooperative representatives that GSU may have used its control of transmission facilities necessary for Cajun to deliver power to its members to coerce the cooperative into buying a portion of the River Bend facility.

In addition to the statements made by cooperative representatives we offer as additional evidence in support of our position the fact that Cajun's reserves will be quite adequate without the River Bend purchase and an associated agreement in which GSU agrees to purchase a portion of Cajun's 1983 coal unit. When all of these agreements are considered Cajun's reserves will fall to only 7% in 1984 - dangerously low. This information is taken from data filed with the REA which has not been filed with the NRC (copy attached).

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Stephen M. Irving, Director

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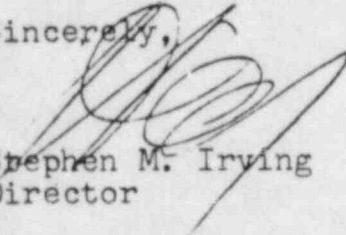
MR. L.S. RUBENSTEIN

APRIL 18, 1980

Finally, we note that GSU has not formally (or perhaps even informally) provided the NRC with either notice of and/or the details of its agreements with Cajun to buy an interest in Cajun's 1983 coal fired unit and the transmission line agreement (see discussion in attached prospectus). Since these agreements were all part of the River Bend package they should be considered in the antitrust review process.

Based upon the above comments, we ask that the Commission request the additional information and hold the necessary hearings to fully investigate the above matters to determine if there are antitrust implications in the method used to obtain the agreement of Cajun to purchase an interest in River Bend.

Sincerely,


Stephen M. Irving
Director

SMI/ro

Enclosures: Multiple

CC: Darl Hood, Div. of Project Management, NRC
Lisa Singer, Esq., NRC
A. Toalston, NRC
Docketing and Service Section, NRC
Attorney General - U.S. Dept. of Justice - Antitrust Division



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

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BY FLUG

Docket No. 50-458A

Mr. Stephen M. Irving, Director
Public Law Utilities Group
One American Place
Suite 1601
Baton Rouge, LA 70825

Dear Mr. Irving:

This Office has received your April 18 letter regarding possible antitrust problems raised by the proposed participation of Cajun Electric Power Cooperative, Inc. (Cajun), in River Bend Station, Unit 1. The Office of the Executive Legal Director of the Nuclear Regulatory Commission, with whom this Office jointly conducts the antitrust review process, has contacted the Justice Department about your letter. The Justice Department has confirmed that it has received a copy of your letter.

As you may be aware the Nuclear Regulatory Commission (NRC) conducts two separate antitrust reviews, a construction permit review and an operating license review, of applicants for nuclear power plant licenses. The construction permit review takes place prior to the issuance of a construction permit for the plant. Upon receipt of antitrust information from the applicant, NRC sends the information to the Justice Department and requests its advice as to whether to hold an antitrust hearing. In this specific case, the Justice Department recommended that a hearing would not be necessary if Gulf States Utilities Company (Gulf States) would agree to the inclusion of certain antitrust conditions in the construction permit. Gulf States did so agree and on March 25, 1977, received a construction permit. This officially terminated the construction permit antitrust review for Gulf States Utilities Company and Gulf States is not subject to additional antitrust review until it applies for an operating license.

Subsequently, Cajun applied to become an owner of River Bend Station, Unit 1 and submitted antitrust information. The Justice Department is currently reviewing this and other information and is expected to advise the NRC by May 8, 1980, as to whether NRC should hold a hearing with respect to Cajun's participation.

The operating license review takes place prior to the issuance of an operating license for the plant. As part of this review the NRC must first determine if circumstances have significantly changed since the

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Mr. Stephen M. Irving

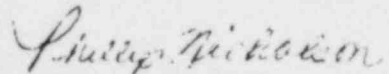
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construction permit was issued. If such a finding is made, NRC then sends its findings and operating license antitrust information submitted by the applicant(s) to the Justice Department and requests advice about whether to hold an antitrust hearing. Because the applicant, Gulf States, has not yet applied for an operating license, this review has yet to begin. When Gulf States does apply, we will consider your April 18, 1980 comments at that time.

In the meantime, your letter will be under consideration by the Department of Justice with respect to Cajun's participation. If I may further help you, you may reach me at 301-492-8339.

Sincerely,



Phillip Nicholson
Antitrust Economist
Antitrust Section
Utility Finance Branch
Division of Engineering
Office of Nuclear Reactor
Regulation