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January 29, 2013

CNRO-2013-00002

10 CFR 50.80
10 CFR 52.28
10 CFR 50.92

Director, Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852

SUBJECT: Responses to NRC Request for Additional Information Regarding Application for Order Approving Transfers of Licenses and Conforming License and ESP Amendments

Arkansas Nuclear One, Units 1 & 2 and ISFSI
Docket Nos. 50-313, 50-368, and 72-13

Grand Gulf Nuclear Station, ESP, and ISFSI
Docket Nos. 50-416, 52-009, and 72-50

River Bend Station Unit 1 and ISFSI
Docket Nos. 50-458 and 72-49

Waterford 3 Steam Electric Station and ISFSI
Docket Nos. 50-382 and 72-75

Dear Sir or Madam:

By letter dated September 27, 2012, Entergy Operations, Inc. (EOI), acting on behalf of Entergy Arkansas, Inc. (EAI), Entergy Gulf States Louisiana, L.L.C. (EGS-LA), Entergy Louisiana, LLC (ELL) and System Energy Resources, Inc. (SERI) (together, the Applicants, and EAI, EGS-LA, ELL and SERI each being an owner Licensee Entity), as well as their parent companies and itself, requested that the Nuclear Regulatory Commission (NRC) issue an Order approving the transfers of control of the Facility Operating Licenses for Arkansas Nuclear One, Units 1 & 2 (ANO), Grand Gulf Nuclear Station (GGNS), River Bend Station Unit 1 (RBS), and Waterford 3 Steam Electric Station (Waterford) (together, the Facilities), as well as the Early Site Permit (ESP) for GGNS and conforming license amendments for the ANO licenses and GGNS license and ESP. The license transfer approval and conforming amendments are necessary to support a proposed transaction whereby all of the transmission assets of Entergy Corporation (Entergy) in the States of Arkansas, Louisiana, Mississippi, Missouri, and Texas will become owned by ITC Holdings Corp. (ITC) and operated by MISO (Midwest Independent Transmission System Operator, Inc.).

On January 23, 2013, the NRC staff conducted a telephone conference to discuss a Request for Additional Information (RAI), which includes four questions regarding the proposed license transfers. The RAI was then provided by e-mail dated January 23, 2013. EOI's response, including answers to the four questions, is provided in the attachment.

This letter contains no new regulatory commitments.

If you have additional questions concerning this license transfer request, please contact Mr. Bryan Ford, Senior Manager, Nuclear Safety and Licensing, at (601) 368-5516.

I declare under penalty of perjury that the foregoing, and the information provided in the attachment, is true and correct; executed on January 29, 2013.

Sincerely,

A handwritten signature in black ink, appearing to be the initials 'JFM' followed by a stylized flourish.

JFM/bsf/ghd/jm

Attachment: Responses to NRC Request for Additional Information Regarding Application for Order Approving Transfers of Licenses and Conforming License and ESP Amendments

ATTACHMENT

CNRO-2013-00002

**RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION REGARDING
APPLICATION FOR ORDER APPROVING TRANSFERS OF LICENSES AND
CONFORMING LICENSE AND ESP AMENDMENTS**

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RAI 1

Please provide information that states why other NRC licenses held by Entergy Corporation or its subsidiaries are not included in the Entergy Application [for Order Approving Transfers of Licenses and Conforming License and ESP Amendments (September 27, 2012)]. This should be in the form of a simplified organization chart (similar to figure 1 and figure 2 of the application) showing current and post-transfer status. In addition, a declarative statement confirming that the other NRC [l]icenses are not involved, and the reason why.

Response

The current ownership structures for the other NRC licenses owned by subsidiaries of Entergy Corporation are reflected in Figure 1 attached to a letter entitled “Supplemental Information #4 in Support of Application for Order Approving Indirect Transfer of Control of Licenses,” dated March 17, 2008 (ML080810285), which was submitted in connection with a prior proposed license transfer. This Figure 1 reflects the current direct and indirect owners of the other NRC licenses, except that “Entergy International Holdings LTD” is now known as “Entergy International Holdings LLC.”¹ A review of Figure 1 confirms that the entities holding the other NRC licenses and their intermediary holding companies are not involved in the proposed transfers that are the subject of the September 27, 2012 application. Other than Entergy Corporation being the same ultimate parent holding company, the companies identified in Figure 1 are not involved in the ownership of transmission assets, which are being transferred in

¹ This entity indirectly holds a 25% interest in Entergy Holding Company #1, which is an intermediary holding company in the ownership chain for Pilgrim, FitzPatrick, and Indian Point 3. However, 75% of Entergy Holding Company #1 is owned directly by Entergy Corporation, and Entergy Corporation exercises control over Entergy Holding Company #1 without regard to the interest held by Entergy International Holdings LLC. Moreover, the conversion of this corporation to a limited liability company was effected by operation of Delaware law, and it survived as the same legal entity after the conversion, except with a new name and new corporate form. Therefore, the change from “Entergy International Holdings LTD” to “Entergy International Holdings LLC” did not involve any transfer of control of any NRC license and did not require any approval pursuant to 10 CFR 50.80.

connection with the proposed transfers, and thus, these licenses are not included in the subject Entergy Application.

RAI 2

Starting with the fiscal year 2013, please provide a 5 year forecast of revenue and expenses for the 30% non-regulated portion of River Bend Station Unit 1, as required for a non-electric utility licensee under 10 CFR 50.33(f) and (f)(2). In association with this RAI, two scenario forecasts of revenue and expenses showing: (1) the results of a 10% reduction in the price of electricity sold; and (2) a 10% reduction in capacity generation.

Response

The 30% portion of River Bend Station Unit 1 (RBS) is sometimes referred to as the “non-regulated” portion. However, the energy from this 30% portion of RBS is sold pursuant to two cost-of-service based power purchase agreements pursuant to Schedule MSS-4 of the Entergy System Agreement, with two-thirds (approximately 200 MWe) being sold to Entergy Louisiana, LLC and one-third (approximately 100 MWe) being sold to Entergy New Orleans, Inc. These agreements, known as “the River Bend 30 PPAs,” provide for cost-of-service based rate recovery for the 30% share of RBS formerly owned by Cajun Electric Cooperative. Thus, Entergy Gulf States Louisiana, L.L.C. (EGS-LA) qualifies as an “electric utility” for this portion of RBS, because it “recovers the cost of this electricity, either directly or indirectly, through rates established . . . by a separate regulatory authority.” 10 CFR 50.2. As an “electric utility” for this portion of RBS, EGS-LA is exempt pursuant to 10 CFR 50.33(f) from the financial review requirements of 10 CFR 50.33(f)(2).

The River Bend 30 PPAs have been specifically approved by the Federal Energy Regulatory Commission (FERC), and this rate recovery is subject to ongoing regulation by FERC. *Entergy Services, Inc.*, Order No. 485 (Docket Nos. ER03-583, *et al.*), 116 FERC ¶61,296, at PP14-15 & P103 (2006), *aff'd* Order No. 485-A (Docket Nos. ER03-583, *et al.*),

119 FERC ¶61,019 (2007), *aff'd Louisiana Public Service Comm'n v. Federal Energy Regulatory Comm'n*, 551 F.3d 1042 (D.C. Cir. 2008).

Pursuant to a settlement, it was agreed that the River Bend 30 PPAs would be priced using the Service Schedule MSS-4 formula rates, which are cost-of-service based rates. *Entergy Services, Inc.*, 116 FERC at P14. Thus, upon reviewing these PPAs, the FERC noted that the Presiding Officer had found that “(4) the Entergy Gulf States River Bend agreements, which Entergy contracted outside the 2002 RFP [request for proposal], were just and reasonable since they will be priced consistent with the Service Schedule MSS-4 **cost-of-service rate formula.**” *Id.* at P15 (emphasis added). The FERC then affirmed “the presiding judge’s finding that the Entergy Gulf States River Bend 30 PPAs are just and reasonable and not unduly discriminatory as repriced under Service Schedule MSS-4 of the System Agreement,” noting that “[t]he MSS-4 Settlement produced just and reasonable rates which would be applied to the River Bend 30 capacity and, in turn, would always result in oversight (*i.e.*, regulation) by the Commission.” *Id.* at P103.

RAI 3

Foreign ownership, control, or domination:

According to the application dated September 27, 2012, Entergy stated the following:

Blackrock, Inc., a Delaware corporation, reports that as of December 31, 2011, it owned 7.83% of the voting common stock of Entergy and that an undisclosed number of these shares are held by one or more foreign-domiciled subsidiaries. In addition, State Street Corporation, a Massachusetts corporation, reports that as of December 31, 2011, it owned 5.2% of the voting common stock of Entergy and that an undisclosed number of these shares are held by one or more foreign-domiciled subsidiaries, and Franklin Resources, Inc., a Delaware corporation, reports that as of December 31, 2011, it owned 5.3% of the voting common stock of Entergy and that an undisclosed number of these shares are held by one or more foreign-domiciled subsidiaries.

Section 103d of the Atomic Energy Act prohibits the NRC from issuing a license to:

[a]n alien or any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation or a foreign government.

The Commission's regulations under Title 10 of the Code of Federal Regulations (10 CFR) Section 50.38 state:

Any person who is a citizen, national, or agent of a foreign country, or any corporation, or other entity which the Commission knows or has reason to believe is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government, shall be ineligible to apply for and obtain a license.

To complete its review, the NRC staff requires the following additional information:

- a) State what rights Blackrock, Inc., State Street Corporation, and Franklin Resources, Inc. will have to participate in matters affecting the management or operation of the Entergy, including, but not limited to, the right to vote on or nominate any Director(s) to EOI's Board of Directors.*
- b) Provide a description of the procedures in place to assure that Blackrock, Inc., State Street Corporation, and Franklin Resources, Inc. shareholder rights in EOI do not result in their participation in decisions concerning nuclear safety or security; obtaining responsibility for special nuclear material; or gaining access to restricted data in order for the NRC staff to determine if the aforementioned statute and regulatory requirements have been met.*
- c) State whether there are any unanimous consent requirements for decisions made by the Board of Directors and whether Blackrock, Inc., State Street Corporation, and Franklin Resources, Inc. will have any right to participate in unanimous decisions. If applicable, provide a list of their rights.*
- d) Describe the legal, contractual or financial arrangements, if any, between EOI, and Blackrock, Inc., State Street Corporation, and Franklin Resources, Inc., or any foreign entity or any entity that is owned, controlled, or dominated, directly or indirectly, by a foreign entity.*

Response

- a) Other than rights as voting shareholders of Entergy Corporation, Blackrock, Inc., State Street Corporation, and Franklin Resources, Inc. have no rights to participate in matters affecting the management or operation of the Entergy Corporation, EOI or any of Entergy's operating companies including no right to vote on or nominate any Director(s) to EOI's Board of Directors.

- b) Blackrock, Inc., State Street Corporation, and Franklin Resources, Inc. have voting rights as shareholders of Entergy Corporation, e.g., voting rights along with all other shareholders to approve the directors of Entergy Corporation. They do not have any rights with respect to the management or operation of the nuclear units by Entergy Operations, Inc., and therefore, they: (1) have no right or ability to participate in decisions concerning nuclear safety or security; (2) have no right or ability to obtain access to or responsibility for special nuclear material; and (3) have no right or ability to gain access to restricted data.
- c) Neither Blackrock, Inc., nor State Street Corporation, nor Franklin Resources, Inc. has any unanimous consent rights relating to the governance of Entergy Corporation or its subsidiaries.
- d) Other than their status as shareholders of its parent, Entergy Corporation, EOI is not aware of any legal, contractual or financial arrangements, between EOI and Blackrock, Inc., State Street Corporation, and Franklin Resources, Inc. Moreover, EOI has no reason to believe that either Blackrock, Inc., or State Street Corporation, or Franklin Resources, Inc. is owned, controlled, or dominated, directly or indirectly, by any foreign entity. Rather, the filings by these entities with the Securities and Exchange Commission indicate that each of these entities is a U.S. company.

RAI 4

Decommissioning Financial Assurance

In its filings with the Texas Public Utility Commission, docket 40346, Entergy indicated that it intends to withdraw from the Entergy Systems Agreement (ESA) and has agreed to give notice by October 31, 2013, to exit the ESA. State how the exit from the ESA will affect the terms under the MSS-4 contract for River Bend Station and/or how the withdraw[al] from the ESA will impact decommissioning funding assurance for River Bend, including but not limited to whether this will constitute a change to the method of providing decommissioning funding assurance.

Response

Entergy Texas, Inc. (ETI) has committed to withdraw from the Entergy Services Agreement (ESA) in connection with the transfer of transmission assets to ITC Holdings Corp. (ITC), which are to be operated by MISO (Midwest Independent Transmission System Operator, Inc.). However, ETI's withdrawal from the ESA is not intended to impact any of the terms or conditions of MSS-4, and this is specifically acknowledged as a Finding of Fact in an Order of the Public Utility Commission of Texas (PUCT) dated October 26, 2012, in PUC Docket No. 40346. See Order, para 22.e, page 14. This Order is a public record maintained by the PUCT and available electronically at:

http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/40346_410_740074.PDF.

This PUCT finding acknowledges:

“For all other Schedule MSS-4 contracts to which ETI is a party – which are River Bend, Carville, and EAI WBL – ETI's position is that exit from the ESA is not intended to affect the terms, pricing, or energy entitlements under these contracts, and ***the pricing under these contracts will continue to be based on a cost-based formula filed at and approved by the FERC.***”

Order, para. 22, page 14 (emphasis added).

Even if the MSS-4 contract is modified in some respect, or replaced with a substitute contract, it is expected that the basic terms of the MSS-4 and cost-of-service rate regulation will continue unchanged pursuant to a cost-of-service tariff with the FERC. As such, EOI does not expect that ETI's withdrawal from the ESA will affect the terms under the MSS-4 contract for RBS, and EOI does not expect that ETI's withdrawal from the ESA will impact decommissioning funding assurance for RBS. It also does not expect any change that will constitute a change to the method of providing decommissioning funding assurance.

The current level of collection of decommissioning funds from Texas ratepayers was specifically acknowledged as a Finding of Fact in an Order of the PUCT dated December 13, 2010, in PUC Docket No. 37744. See Order, para 32, page 9 and para 46, page 12 (“recovery of \$2,019,000 annually for decommissioning costs . . . is reasonable”). This Order and other relevant filings with the FERC are included as Attachments 3-E, 3-F, and 3-G to the decommissioning status report submitted pursuant to 10 CFR 50.75(f)(1) by letter dated October 15, 2012 (CNRO-2012-00007) (ML12292A283).