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STATE OF SOUTH CAROLINA

State Budget and Control Board

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SC PUBLIC SERVICE COMMISSION

January 29, 2003

The Honorable Gary E. Walsh
Executive Director
South Carolina Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211-1649

Re: Application of Chem-Nuclear Systems, LLC (SCPSC Docket No. 2000-366-A) For Fiscal Year 2002-2003.

Dear Mr. Walsh:

Enclosed herewith for filing with the Commission, please find the original and twenty-five copies of the pre-filed testimony of William Newberry, on behalf of the South Carolina Budget and Control Board pursuant to the Commission's Order No. 2002-793 in the above captioned docket.

By copy of this letter, I am serving all Counsel/Parties of record with a copy of the testimony.

Should you have any questions with respect to this testimony, please do not hesitate to contact me at 737-2799. With warmest regards,

Sincerely,

Robert E. Merritt

Robert E. Merritt

Enclosures

Cc: Parties/Counsel of Record

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DIRECT TESTIMONY

OF

WILLIAM F. NEWBERRY

FOR

THE S.C. BUDGET AND CONTROL BOARD

SCPSC DOCKET NO. 2000-366-A

(For Fiscal Year 2002-2003)

S.C. PUBLIC SERVICE COMMISSION RECEIVED JAN 27 2003 UTILITIES DEPARTMENT

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is William F. Newberry. My business address is 1201 Main Street, Suite 1010, Columbia, S.C. 29201.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by the South Carolina Budget and Control Board. I am Director of the Radioactive Waste Disposal Program under the South Carolina Budget and Control Board.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I have a bachelor's degree in political science from the University of Central Florida and a master's degree in library science from Florida State. I also attended law school for two terms at the University of Florida, and took additional college courses in computer programming at that school.

I have held various positions in radioactive waste management over the past 20 years in state government, the federal government, and the private sector. Before this, I was a medical librarian at the University of South Carolina School of Medicine. Before returning to South Carolina in 1999, I was employed for eight years as a consulting technical specialist with the Idaho National Environmental and Engineering Laboratory. In that capacity I provided consultation to states that were then engaged in the development of their own low-level radioactive waste disposal facilities. I managed several projects for states that specifically addressed disposal cost projections. I was project leader for a radioactive waste disposal rate review workshop for states and compact regions that were planning for regulatory control of disposal rates at the new disposal sites. Before this, I was executive director of a state agency in Vermont that was tasked with developing a radioactive waste disposal facility. In that capacity, I was required to project life cycle costs for our planned facility and to apply to the Vermont Public Utility Commission for a tariff on waste generators to support the development.

Q. PLEASE DESCRIBE YOUR GENERAL DUTIES AND RESPONSIBILITIES?

A. The Radioactive Waste Program is responsible for three major areas. The Budget and Control Board is responsible for all state-owned properties including the Barnwell disposal facility. In that regard, my Program plans for eventual custodial care of the facility after it is closed and the lease with Chem-Nuclear is terminated. Secondly, we develop and recommend disposal rates to the Board

and oversee the utilization of volume available under state law during the ramp-down. Finally, state law requires that we participate as a party representing the interests of the State of South Carolina in proceedings before the Public Service Commission regarding the site operator's allowable costs. In that capacity, it is our objective that the disposal facility be operated as efficiently as possible consistent with public health and safety.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. I will provide the position of the Board staff on several specific issues that arise from this docket.

Q. IN GENERAL, WHAT IS THE POSITION OF THE BUDGET AND CONTROL BOARD STAFF AS TO CHEM-NUCLEAR'S APPLICATION?

A. The Board staff reviewed the initial Chem-Nuclear application that was filed September 27, 2002. We have discussed several of the cost areas with the management of Chem-Nuclear and suggested some specific changes. The Chem-Nuclear revised application, which was filed November 7, 2002, includes the changes that we recommended.

Q. DID THE BUDGET AND CONTROL BOARD CONDUCT AN AUDIT OF OPERATING COSTS AND DOES THE BOARD STAFF SUPPORT THE FINDINGS OF THE PUBLIC SERVICE COMMISSION AUDIT?

A. Under state law, the Public Service Commission is granted authority to obtain and audit the books and records of the site operator. The Budget and Control Board did not seek to conduct an additional audit relating to this application. The Board staff would generally support the findings and recommendations of the PSC audit

staff on any issues identified in their audit that are not specifically addressed in my testimony or the joint statement of CNS and the Board concerning the OEP.

Q. CHEM-NUCLEAR HAS PROPOSED AN EMPLOYEE COMPENSATION AND RETENTION PLAN. DOES THE BOARD STAFF SUPPORT THE NEED FOR SUCH A PLAN?

A. Yes. The plan proposed by Chem-Nuclear is a combined compensation plan and an employee retention plan. We support both parts of the plan.

Q. PLEASE STATE YOUR BASIS FOR SUPPPORT OF THE PLAN DEALING WITH EMPLOYEE RETENTION.

A. Under state law, the volume of waste that can be accepted at the Barnwell site is to be reduced through the year 2008. After 2008, the site can only accept waste generated within the three-state compact region. These reductions in the level of business activity will lead to reductions in staffing levels. It is important that Chem-Nuclear management be able to provide some incentive to employees to retain their services as long as they are needed, so that staff levels may be trimmed through a planned and orderly reduction in force.

Q. Chem-Nuclear's proposed plan provides a higher level of compensation for key employees than for all the other employees. Do you support covering all employees in the plan, and do you support the different levels of compensation?

A. We believe that the unusual circumstances of the Barnwell volume reduction will make even unspecialized positions difficult to fill with capable people in coming years. For this reason, we believe it is appropriate that all employees be covered.

We support the higher percentage level of compensation for the five key employees because we believe that these positions will be especially difficult, if not impossible, to fill with capable people if there is an expectation on the part of applicants that they are temporary positions.

Q. PLEASE STATE YOUR BASIS FOR SUPPORT OF THE PLAN DEALING WITH ANNUAL EMPLOYEE COMPENSATION INCENTIVES.

A. Disposal revenues that are in excess of operating costs are retained by the State of South Carolina and are earmarked for educational purposes and for Barnwell County government. However, the state law provides Chem-Nuclear no incentives to help the state optimize the amount of disposal revenues it receives from customers. In the proposed employee retention and compensation plan, employees are rewarded for meeting certain performance objectives each year. In the proposal, as revised, one of those performance measures is the amount of money that the company transfers to the State at the end of each fiscal year. This performance measure provides an incentive for the company to assist the state in developing effective pricing strategies, not just strategies that optimize the volume of waste received. Linking annual compensation incentives to the net proceeds that accrue to the State of South Carolina may also provide some incentive for operating efficiently, since lower operating costs would also boost net proceeds to the state.

Q. WHAT IS THE SOURCE OF THE TARGET REVENUE GOALS THAT ARE AN ATTACHMENT TO THE EMPLOYEE COMPENSATION AND RETENTION PLAN SUBMITTED BY CHEM-NUCLEAR?

A. The table that shows net revenue targets for the State (titled "Projections of percent retention compensation earned based on dollars for South Carolina in remaining fiscal years") was developed by my office. We benchmarked the numbers on actual revenues received in the two years since the new state law was enacted. The revenue targets are scaled down each year in accordance with the volume caps in the state law. This is to avoid penalizing the site operator for reduced revenues each year that are solely due to the statutory volume limits. It is important to note that, except for the current fiscal year, these initial revenue targets may be re-negotiated each year at the request of Chem-Nuclear, the Budget and Control Board, or the Public Service Commission to take into account changes in the competitive disposal market.

Q. WHAT OTHER CHANGES HAVE BEEN MADE TO THE PLAN AS REVISED?

A. The plan as originally proposed split the dollars set aside for each employee so that the employee could receive up to 60% of the set-aside at the end of each fiscal year, if the performance objectives were met. The other 40% would continue to be held for the employee and awarded only if the employee were terminated by the company as part of a planned reduction in force, retirement, disability or death. We suggested to Chem-Nuclear that more of the total be held

as part of the retention incentive and less be awarded as part of the performance incentive. The revised plan reflects this suggestion by making the split 55%/45%.

Q. DID CHEM-NUCLEAR MAKE ANY OTHER CHANGES TO THE COMPENSATION AND RETENTION INCENTIVE PROPOSAL IN RESPONSE TO THESE DISCUSSIONS?

A. Yes. Chem-Nuclear has agreed that they will not seek the standard 29% margin on compensation and retention funds. They have indicated to us that they believe such margin would be appropriate under state law.

Q. HAS THE BOARD STAFF REVIEWED THE OPERATIONS AND EFFICIENCY PLAN (THE OEP)?

A. Yes. The Board has reviewed the report and has discussed it with Chem-Nuclear, the PSC staff, the Atlantic Compact Commission and DHEC.

Q. PLEASE DESCRIBE THE CONTENTS OF THE OEP.

A. The OEP contains a detailed work breakdown structure for all activities at the Barnwell site. For each work element, the report provides the number of units or occurrences of each, and the cost associated with each unit based on existing labor rates.

Q. WHAT IS THE BOARD STAFF'S POSITION ON THE OEP?

A. The PSC directed Chem-Nuclear to develop the OEP following the spring 2001 hearings. Based on the discussion in the June 2001 Order, we believe that the PSC sought the study in order to better identify which cost elements were fixed, which varied in relation to measurable variables associated with business activity, and the specific relationship between cost elements and other variables. The Order

singled out vault costs and trench amortization as the only two variable costs because of a lack of solid data about the relationship between business activity and operating costs. We believe the PSC meant to apply the information and data gleaned in the report to subsequent allowable cost proceedings. It is our position that the OEP does provide a useful work breakdown structure that can be used as a starting point for better identifying fixed and variable costs. We do not necessarily support all the assumptions in the report about the number of units of each work element, or the costs associated with each unit of work. We do not necessarily agree with the categorization of different elements of the work as fixed, variable or irregular.

Q. HOW DOES THE BOARD STAFF PROPOSE TO EVALUATE THE OEP AND PRESENT THE RESULTS OF THE ANALYSIS?

A. We will procure the services of an experienced cost estimator with a specific background in radioactive waste disposal. We will convert much of the data in the OEP into a detailed spreadsheet. This will provide us a more systematic way to examine the details in the report, and to evaluate the impact of changes in assumptions on overall operating costs. Specifically, we plan to hold an initial scoping session to discuss in detail each cost element and see if we can agree on its basic unit cost per occurrence, the number of occurrences annually, and whether or not the number of occurrences is driven by some variable such as the number of shipments received. From this work session, we will compile the list of all the variables that drive costs in some manner, delete those that appear trivial to the overall outcome, and then work with the parties to review and refine the

results of this analysis in a subsequent workshop. We also plan to conduct a site visit to verify information and gather any missing details related to the analysis. We have already met with the management and technical staff of Chem-Nuclear, the PSC audit staff, the director of the Atlantic Compact Commission, and DHEC regulators to discuss the report and this methodology for the evaluation. We believe that this discussion was productive. We would also welcome participation and input from the Consumer Advocate, as they desire, in this process. We hope to narrow the range of disagreement so that we might be able to provide the commission a recommendation on fixed and variable costs that can be applied in subsequent allowable cost hearings.

Q. DO YOU BELIEVE THAT THE OEP PROVIDES USEFUL INFORMATION THAT MIGHT BEAR UPON THE OUTCOME OF THIS HEARING?

A. The OEP is a highly detailed 300-page report. It has not undergone an independent peer review to help in knowing the basis for the assumptions and data in the report. We would like to see the parties work towards a consensus to lead to specific recommendations on how better to calculate operating costs. We would prefer to work with the parties in a constructive manner using the OEP as a starting point to try to better identify, define and quantify fixed and variable costs. It would not be possible to do this within the time frame to affect these proceedings. Chem-Nuclear's allowable cost application was filed in September and is consistent with pre-established format and procedures for reporting fixed and variable costs. While this analysis of the OEP may lead to recommendations

on how the process might be improved, we believe that any significant changes derived from the results of the OEP would best be applied starting with next year's allowable cost cycle.

Q. DOES THE BOARD STAFF HAVE A POSITION ON THE COST OF CONCRETE DISPOSAL VAULTS?

A. We have suggested and Chem-Nuclear has agreed to issue a request for proposals for concrete disposal vaults before the end of this fiscal year. While we do not have any specific information indicating the cost of these specially made vaults exceeds the fair market price, we believe it is important to re-establish the market price periodically through a competitive bid process. Chem-Nuclear has agreed to issue a request for proposals for disposal vaults before the end of the fiscal year. They have agreed to consult with us on the request for proposal and to keep us informed on progress of the bid process.

Q. HAVE YOU HAD THE OPPORTUNITY TO REVIEW THE PRE-FILED TESTIMONY OF CAROL ANN HURST?

A. Yes, but not in the depth I would prefer. I believe that much of the information contained in her pre-filed testimony would have been more appropriate and useful to be included in the original application. It would definitely have been of great assistance in our discussions leading up to this hearing. It would be my recommendation and request that this information be provided in the original application for future proceedings.

Q. DOES THAT CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes.