

Dated at Rockville, Maryland, this 21st day of April 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-289]

GPU Nuclear, Inc. et al. (Three Mile Island Nuclear Generating Station, Unit 1); Exemption

I

GPU Nuclear, Inc., *et al.* (GPUN or the licensee) is the holder of Facility Operating License No. DPR-50, which authorizes operation of the Three Mile Island Nuclear Generating Station, Unit 1 (TMI-1 or the facility) at power levels not to exceed 2568 megawatts thermal. The facility consists of one pressurized-water reactor located at the licensee's site in Dauphin County, Pennsylvania, and was licensed to operate on April 19, 1974. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

Appendix R to 10 CFR part 50 contains specific requirements regarding fire protection features of nuclear power plants operating prior to January 1, 1979. Subsection III.G.2.c of Appendix R specifies, in part, the enclosure of cable and equipment and associated non-safety-related circuits of one redundant train in a fire barrier having a 1-hour rating. The underlying purpose of Subsection III.G.2.c of Appendix R is to provide reasonable assurance that one safe shutdown train and associated circuits used to achieve and maintain safe shutdown are free of fire damage. By letter dated December 31, 1996, as supplemented by letters dated September 8, 1997, December 30, 1997, May 21, 1998, October 14, 1998, November 25, 1998, and December 23, 1998, the licensee requested an exemption from the requirements of section III.G.2.c of Appendix R to the extent that they require the enclosure of one train of redundant safe-shutdown circuits in 1-hour fire-rated barriers. The licensee is requesting this exemption in accordance with the provisions of 10 CFR 50.12.

The licensee's request encompasses 10 fire zones/areas that have Thermo-

Lag installed on electrical raceways for the original purpose of providing a 1-hour rated barrier separating redundant circuits located in the same fire area in accordance with section III.G.2.c of Appendix R. In its December 31, 1996, letter, the licensee provided information indicating that the Thermo-Lag envelopes in the zones/areas for which exemptions are requested, have fire endurance ratings of less than 1 hour. The exemption was requested for fire zones/areas AB-FZ-3, AB-FZ-4, AB-FZ-5, AB-FZ-7, CB-FA-1, FH-FZ-1, FH-FZ-2, FH-FZ-6, ISPH-FZ-1, and ISPH-FZ-2. In its submittal, the licensee states that modification of the identified fire barriers to achieve a 1-hour fire rating in accordance with American Society for Testing and Materials Standard E-119 (ASTM E-119) would cost approximately \$1.0 million, which represents a substantial expenditure for minimal safety enhancement.

The staff holds to a defense-in-depth philosophy when determining adequate fire protection. In areas in which fire barriers are required to be rated at 1 hour, barriers that have actual fire endurance ratings of less than 1 hour are acceptable only if the fire area/zone also has automatic detection and fire suppression systems provided in accordance with applicable National Fire Protection Association (NFPA) standards and when the fire hazard to the Thermo-Lag-protected envelope is minimal. The combination of these features and conditions provides defense in depth.

The fire areas/zones that are the subject of this exemption request do not currently meet the technical requirements of section III.G.2.c of Appendix R because the Thermo-Lag electrical raceway fire barrier envelopes for the fire zones discussed above are not rated at 1 hour in accordance with the rating requirements of NRC Generic Letter 86-10, Supplement 1. Section III.G.2.c of Appendix R could only be satisfied by protecting each envelope with a 1-hour fire-rated barrier. The fire zones reviewed do not have any Thermo-Lag envelopes rated at 1 hour or more; therefore, the criteria for granting an exemption, for the most part, are based on the availability of automatic detection and suppression systems and the fire hazards present in each fire zone.

III

The staff has completed its evaluation of the licensee's request for an exemption. The licensee has administrative controls in place over transient combustibles and work in the

plant in accordance with 10 CFR part 50, Appendix R, section III.K, Items 1-8, as documented in an NRC safety evaluation dated June 4, 1984. These controls require total in situ plus allowable transient fire load in a fire area/zone (or cumulative load) to be half of what would challenge the lowest rated barrier in the zone based on equivalent fire severity. These limits are documented in licensee procedures that are referenced in and implement the licensee's Fire Protection Program under License Condition 2.c(4).

On December 31, 1996, the licensee submitted an evaluation of all Thermo-Lag Fire barriers that are the subject of this exemption request in Topical Report #094, Revision 2, "TMI 1 Evaluation of Thermo-Lag Fire Barriers," dated December 20, 1996. The licensee found that most of the barriers currently have a fire rating of less than 1 hour (when tested in accordance with the ASTM E-119). In each of the areas/zones that have automatic suppression and/or automatic detection features, the systems installed in the plant meet all applicable NFPA codes, specifically the criteria for a Class 1 detection system specified in NFPA 72D and NFPA 13 or NFPA 15 for suppression systems.

Fire zones AB-FZ-4 and FH-FZ-1 contain both automatic suppression and detection features. Fires in these zones are postulated to be slowly developing cable fires, with possible ignition sources including cable overload or transient combustibles. If a fire were to occur in these fire zones, indication of the fire would be received in the control room, through the ionization smoke detection system, and either the automatic pre-action system (AB-FZ-4) or the wet pipe sprinkler system (FH-FZ-1) would initiate suppression if the fire continued to grow. If necessary, the fire brigade would be dispatched soon thereafter. The licensee estimates that the fire brigade will respond to these fire zones 15 minutes after receiving an alarm. Manual fire fighting equipment (hand-held fire extinguishers and hose stations) is available in or adjacent to these fire zones.

Fire area CB-FA-1 contains both automatic suppression and detection capability. A fire in this area is postulated to be a slowly developing cable fire, with possible ignition sources being overload or transient combustibles. Exposure of the protected envelope to fire is possible through ignition of cable insulation. There is also an acetylene gas line running above the suspended ceiling from an external tank. The licensee committed in its October 14, 1998, and December 23, 1998, letters to install detectors for

combustible gas in this area to provide prompt detection and notification of an acetylene leak, so that the leak could be promptly isolated at the source prior to reaching the lower explosive threshold for acetylene gas. If a fire were to occur in this fire area, indication of the fire would be received in the control room, through the ionization smoke detection system which is above the suspended ceiling. An automatic wet-pipe sprinkler system which is below the suspended ceiling would actuate to suppress the fire should it continue to develop. If necessary, the fire brigade would be dispatched soon thereafter, and response has been estimated by the licensee to be 15 minutes. A hand-held dry chemical extinguisher is also available adjacent to this fire area.

Fire zone FH-FZ-6 is provided with automatic detection and will be provided with automatic suppression. The licensee committed to install an automatic wet-pipe sprinkler suppression system in this fire zone in its letter dated December 23, 1998. A fire in this zone is postulated to be a slowly developing cable fire, with possible ignition sources being transient combustibles. If a fire were to occur in this fire zone, indication of the fire would be received in the control room by the ionization smoke detection system or through the actuation of the wet-pipe sprinkler system to be installed. If necessary, the fire brigade would be dispatched soon thereafter, and the licensee estimates a brigade response would occur within 15 minutes. Manual fire suppression capability (hose stations and dry chemical extinguisher) is available in or adjacent to this fire zone.

Fire zone ISPH-FZ-1 contains both automatic detection and suppression features. A fire in this zone is postulated to be a slowly developing cable fire, with electrical switchgear as a possible ignition source. If a fire were to occur in this zone, indication of the fire would be received in the control room by the ionization smoke detector system. A zone-wide automatic wet-pipe sprinkler system is available to suppress the fire, should it develop, and portable extinguishers (carbon dioxide and dry chemical) are available within the fire zone. The fire brigade would be dispatched, if necessary, and the licensee estimates a brigade response time of 25 minutes. A portable extinguisher and yard hydrant are located outside the fire area and are available to fight fires in this fire zone. Protected envelopes consisting of cables and conduits passing through this fire zone are fire rated at 39 and 50 minutes respectively, and pass within the

vicinity of in-situ combustibles in only limited instances.

Fire zone ISPH-FZ-2 contains both automatic detection and suppression features. A fire in this zone is postulated to be a slowly developing cable fire, with electrical switchgear as a possible ignition source. If a fire were to occur in this zone, indication of the fire would be received in the control room by the ionization smoke detector system. A zone-wide automatic wet-pipe sprinkler system is available to suppress the fire, should it develop, and a portable extinguisher (carbon dioxide) is available within the fire zone. The fire brigade would be dispatched, if necessary, and the licensee estimates a brigade response time of 25 minutes. A portable extinguisher and yard hydrant are located outside the fire area and are available to fight fires in this fire zone. Protected envelopes consisting of cables and conduits passing through this fire zone are fire rated at 39 and 50 minutes, respectively, and pass within the vicinity of in-situ combustibles in only limited instances.

The staff is relying on the licensee's commitments made in its October 14, 1998, and December 23, 1998, letters for approval of the exemptions for fire area CB-FA-1 and fire zone FH-FZ-6. Therefore, approval of an exemption for that fire area and zone is contingent upon the licensee completing the modifications described in those submittals. The staff believes that reasonable assurance exists that an adequate level of fire safety has been provided through the availability of automatic suppression and detection in these fire zones/areas to ensure that one division of safe-shutdown components necessary to achieve safe shutdown will remain free of fire damage. Therefore, the underlying purpose of the rule is satisfied and this request for exemption with respect to the foregoing fire areas/zones from the requirements of 10 CFR part 50, Appendix R, section III.G.2.c meets the special circumstances delineated in 10 CFR 50.12(a)(2)(ii) in that the application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of the rule. While the installed Thermo-Lag barriers in the fire zones demonstrate less than a 1-hour fire endurance rating, they do provide measured resistance to fire. The areas in which the Thermo-Lag envelopes are located have a low combustible loading in the area of the protected envelopes, have available manual suppression capability, and are equipped with automatic suppression and detection features; the combination of these features and circumstances reflect a

level of safety that meets the underlying purpose of the rule. Therefore, the staff believes that the exemption should be granted for fire zones/areas AB-FZ-4, FH-FZ-1, CB-FA-1, FH-FZ-6, ISPH-FZ-1, and ISPH-FZ-2.

The staff does not believe the same assurance has been provided for fire zones AB-FZ-3, AB-FZ-5, AB-FZ-7, and FH-FZ-2. Fire zones AB-FZ-3, AB-FZ-5, and AB-FZ-7, have automatic detection but not suppression. Fire zone FH-FZ-2 has automatic suppression but not detection.

The licensee has failed to provide reasonable assurance that one division of safe-shutdown components necessary to achieve safe shutdown will remain free of fire damage in the four zones immediately discussed above. Accordingly, as discussed above and in the staff's Safety Evaluation dated April 20, 1999, the staff has concluded that the licensee's request for an exemption from the technical requirements of section III.G.2.c of Appendix R should be denied for fire zones AB-FZ-3, AB-FZ-5, AB-FZ-7, and FH-FZ-2.

IV

Pursuant to 10 CFR 50.12(a)(2), the Commission will not consider granting an exemption from the requirements of a regulation unless special circumstances are present. Subsection (ii) of 10 CFR 50.12(a)(2) includes as special circumstances situations where application of the subject regulation would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of section III.G of Appendix R is to provide reasonable assurance that one safe shutdown train and associated circuits used to achieve and maintain safe shutdown are free of fire damage. As stated above, the staff has determined that the underlying purpose of the rule has been satisfied with respect to fire zones AB-FZ-4, FH-FZ-1, CB-FA-1, FH-FZ-6, ISPH-FZ-1 and ISPH-FZ-2. Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(2)(ii) special circumstances are present in connection with these fire zone/areas.

The Commission has also determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee for fire zones/areas AB-FZ-4, FH-FZ-1, CB-FA-1, FH-FZ-6, ISPH-FZ-1, and ISPH-FZ-2 is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security.

Therefore, the Commission hereby grants GPU Nuclear, Inc., an exemption

from the technical requirements of section III.G.2.c of Appendix R to 10 CFR part 50, to the extent that it requires the enclosure of certain redundant safe-shutdown circuits in 1-hour fire-rated barriers, for fire zones/areas AB-FZ-4, FH-FZ-1, CB-FA-1, FH-FZ-6, ISPH-FZ-1, and ISPH-FZ-2 at TMI-1. The exemption for fire area CB-FA-1 and fire zone FH-FZ-6 is contingent upon the licensee completing the commitments identified in its letters of October 14, 1998, and December 23, 1998, for that fire area and zone. The request for exemption for fire zones AB-FZ-3, AB-FZ-5, AB-FZ-7, and FH-FZ-2 is denied.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the quality of the human environment (64 FR 19205).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 20th day of April 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-443]

North Atlantic Energy Service Corporation, et al., Seabrook Station, Unit 1; Notice of Consideration of Approval of Application Regarding Proposed Corporate Merger and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the indirect transfer of Facility Operating License No. NPF-86 for the Seabrook Station, Unit 1 (Seabrook Station), to the extent held by Canal Electric Company (Canal), one of 11 joint owners of the Seabrook Station. The indirect transfer would be to the new surviving company resulting from the planned merger of Commonwealth Energy System (CES), the parent company of Canal, and BEC Energy (BEC).

According to the application by Canal for approval of the indirect transfer filed by North Atlantic Energy Service Corporation (North Atlantic), the licensing agent for the co-owners of Seabrook Station, Canal is a wholly owned subsidiary of CES. On December

5, 1998, CES and BEC entered into an Agreement and Plan of Merger under which those entities will merge into a new surviving Massachusetts corporation (the "New Company"). Upon consummation of the merger, Canal will become a wholly-owned subsidiary of the New Company, thereby effecting an indirect transfer of Canal's interest in the Seabrook Station's Facility Operating License. North Atlantic, the sole licensed operator of the facility, would remain as the managing agent for the 11 joint owners of the facility and would continue to have exclusive responsibility for the management, operation and maintenance of the Seabrook Station. The application does not propose a change in the rights, obligations, or interests of the other joint owners of the Seabrook Station. In addition, no physical changes to the Seabrook Station or operational changes are being proposed. No direct transfer of the license will result from the proposed merger.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the proposed transfer of control will not affect the qualifications of the holder of the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the indirect license transfer application, is discussed below.

By May 17, 1999, any person whose interest may be affected by the Commission's action on the application may request a hearing, and, if not the applicants, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be

denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)-(2).

Requests for a hearing and petitions for leave to intervene should be served upon Timothy N. Cronin, COM/Energy Services Company, One Main Street, Cambridge, Massachusetts 02142-9150, attorney for COM/Energy Services Company; John A. Ritscher, Ropes & Gray, One International Place, Boston, Massachusetts 02110-2624, attorney for BEC Energy; John Cope-Flanagan, Esq., COM/Energy Services Company, One Main Street, P.O. Box 9150, Cambridge, Massachusetts 02142, attorney for Canal Electric Company; Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, 107 Selden Street, Berlin, Connecticut, 06037, attorney for North Atlantic Energy Service Corporation; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: OGCLT@NRC.gov); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by May 27, 1999, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated February 2, 1999, submitted under cover of a letter dated February 11, 1998 [sic], and supplements dated February 23, March 5, and March 17, 1999, which are available for public inspection at the