RESPONSE TO QUESTIONS ON THE CURRENT STATUS OF PROCESSING NEW REACTOR PLANT APPLICATIONS

Question 1.

How many COL applications are currently being actively reviewed by the Commission?

Response 1.

As of October 1, 2009, the U.S. Nuclear Regulatory Commission (NRC) is actively reviewing 13 combined license (COL) applications.

In response to requests from the sponsoring applicants, the NRC has suspended its review activities on five other COL applications. Specifically, the NRC reviews have been suspended on Exelon's Victoria County station, AmerenUE's Callaway plant, and Entergy's Grand Gulf and River Bend stations. The NRC has also received a request from the applicant for Constellation Energy's Nine Mile Point Plant to defer NRC review activity until September 2010.

Question 2.

For those applications identified in response to item 1, is the Commission currently on track to meet the published schedules for safety and environmental reviews?

Response 2.

The Commission has established plans and is making progress to meet the published schedules for the applications in the response to item 1. However, meeting the schedules is becoming increasingly dependent on the ability of the COL applicants to provide complete and timely information to resolve NRC requests for information, and on the ability of the applicants for the design certifications (incorporated by reference in those COL applications) to support the design certification review schedules. Furthermore, in some cases, applicants have submitted site-specific design changes after the NRC has started its review. In such cases where the applicant's plans have changed or its performance is not what the NRC expected, the staff may need to reevaluate the rev schedule, as well as any dependent reviews. For example, the NRC recently informed the applicant for the AP1000 design certification amendment that modifications of the proposed shield building design are needed in order to meet safety requirements. Any impact on related COL review schedules referencing the AP1000 will be addressed once the impact on the design certification review schedule is better understood.

Question 3.a.

For those applications identified in response to item 1:

Does the Commission anticipate meeting the model milestones set forth in 10 CFR Part 2, Appendix B, that provide that an evidentiary hearing commence within 175 days of completion of the Commission staff safety and environmental reviews of the applications?

Enclosure

Response 3.a.

Yes. With respect to the contested hearings that are held in response to the submission of an intervention petition by an interested individual or entity, the Commission anticipates that the Atomic Safety and Licensing Boards (Boards) designated to preside over those proceedings for which a hearing request has been granted will meet the model milestones set forth in Appendix B, "Model Milestones To Be Used by a Presiding Officer as a Guideline in Developing a Hearing Schedule for the Conduct of an Adjudicatory Proceeding in Accordance with 10 CFR 2.332," to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," including commencing an evidentiary hearing within 175 days of completion of the staff's safety and environmental reviews. The Commission's regulations provide for the establishment of and adherence to case-specific schedules that are based on the model milestones. For example, 10 CFR 2.332, "General Case Scheduling and Management," requires the Board to issue a general case scheduling order using the model milestones in Appendix B. The Board may make appropriate modifications based on, among other things, the complexity of the issues presented. Furthermore, 10 CFR 2.334, "Implementing Hearing Schedule for Proceeding," provides that once the NRC has established a hearing schedule, the Board must provide written notification to the Commission under two circumstances. First, any time during the course of the proceeding it appears that there will be a delay of more than 45 days in meeting any of the dates for major activities in the hearing schedule or second, if completion of the record or the issuance of the initial decision will be delayed more than 60 days beyond the timeline established in the hearing schedule. The notification must explain the reasons for the projected delay and describe any actions that the Board proposes to take to avoid or mitigate it.

As of this date, the Commission has granted contested hearings for eight of the applications identified in response to item 1. The Board denied intervention for an additional three proceedings, and the denials are on appeal to the Commission. Of the eight currently contested proceedings, the NRC has issued scheduling orders (attached) in four of the proceedings. All of the issued schedules anticipate the NRC will meet or better the model milestone goal of commencing the evidentiary hearing within 175 days of completion of the staff safety and environmental reviews.

Question 3.a.i.

> If not, please explain how much additional time may be required.

Response 3.a.i.

The Commission anticipates that Boards will meet the model milestones and will not require additional time.

Question 3.a.ii.

> How much time does the Commission currently estimate will be required for completing evidentiary hearings on the pending applications?

Response 3.a.ii.

The length of any particular evidentiary hearing is dependent on the number and complexity of contentions being considered. For example, the contested hearing regarding the Vogtle early

site permit involved three contentions and lasted 4 days. The Commission anticipates that COL evidentiary hearings would last a comparable amount of time for a comparable number of contentions of similar complexity.

Question 3.b.

> Does the Commission anticipate meeting the model milestones set forth in 10 CFR Part 2, Appendix B, that provide that the presiding officer issue an initial decision within 90 days of completion of the evidentiary hearing and closing of the record? If not, please explain why not and how much additional time may be required. If the Commission anticipates meeting the milestones for some COL applications but not others, please explain what factors lead to that assessment of each application.

Response 3.b.

As discussed in response to item 3.a., the Commission anticipates that the Boards will meet the model milestones set forth in 10 CFR Part 2, Appendix B, including issuing an initial decision within 90 days of completion of the evidentiary hearing and closing of the record.

Question 4.

> Has the Commission established any targeted dates for the Commission or Atomic Safety and Licensing Boards to commence evidentiary hearings on any of the pending applications? If not, why not?

Response 4.

No. Pursuant to the Commission's regulations, evidentiary hearings generally begin once the staff issues its safety evaluation report and its final environmental impact statement for the application. As stated in response to item 2, the NRC's ability to establish and meet schedules depends on its receipt of a high-quality application. Moreover, although the staff has established schedules for some of the applications subject to a hearing, meeting the schedules is dependent on the ability of the COL applicants to provide timely information to resolve NRC requests for information, and on the ability of the applicants for the design certifications (incorporated by reference in those COL applications) to support the established design certification review schedules. Other factors that would impact the ability of the Boards to establish specific target dates include whether additional contentions are filed and whether motions for summary disposition are filed and granted.

Question 5.

> Has the Commission established any targeted dates for the Commission or Atomic Safety and Licensing Boards to complete evidentiary hearings on any of the pending applications? If not, why not?

Response 5.

As discussed in the response to item 4, the Commission has not established any targeted dates for it or the Boards to complete the evidentiary hearings.

Question 6.

> What is a realistic amount of time for the regulated community and the public to expect the Commission to take to complete its review of the pending COL applications that are being actively pursued?

Response 6.

As indicated in the response to item 2, the Commission is working effectively and efficiently to complete the reviews of COL applications consistent with the established and published schedules, despite the challenges that exist. The NRC is working with applicants to overcome these challenges. In general, the Commission believes that the staff should be able to complete its review in approximately 30 months from the date of docketing the application. Once the staff 's safety evaluation report and environmental impact statement for an application are completed, the agency estimates a period of time, as explained in our response to item 3a, that is needed for the Commission to complete the hearing process, including both the contested and uncontested portions, and to make a final decision regarding the issuance of a COL.

Question 7.

> What measures or actions do you anticipate that the Commission will undertake during your tenure to ensure that reviews of COL applications will be timely and efficiently completed?

Response 7.

The timely and efficient completion of COL application reviews and licensing of new nuclear plants is a Commission priority; however, the Commission's primary mission is to protect public health and safety and the environment. As stated earlier, the ability to establish and meet schedules depends on the receipt of high quality applications. For our part, the Commission has undertaken a number of measures to ensure that the agency will complete the reviews of COL applications in a timely and efficient manner that will not compromise our safety mission. These measures include the following:

- Deployment of the earned value management (EVM) project health indicators for the new reactor license applications currently under review. The EVM indicators are used to determine overall project health, improve schedule compliance and resource utilization, and improve efficiency of the project under review. As a result of implementing EVM, the NRC increased the effectiveness of its new reactor licensing program by better identifying and minimizing risks to project schedules and review completions and managing resource utilization across all of the new reactor licensing applications.

- Development of a business intelligence system to integrate data from several different systems, including EPM, Human Resources Management System (the NRC's timekeeping system), and SharePoint (an information sharing tool used to manage information across multiple users). This system enhances and automates resource tracking and reporting and makes detailed information available for NRC managers to measure actual project costs and forecast future budget needs.

- Development of a new COL application review model. The staff will implement and evaluate this model to ensure that if the NRC receives a second wave of new COL applications, the Office of New Reactors (NRO) will be well positioned to handle the workload in a timely manner and effectively manage its resources.

- Implementation of project performance meetings. During the last fiscal year, NRO held approximately 50 weekly, standardized, project performance meetings on a design-center basis. These meetings provided a forum for management and staff to focus on risk mitigation and progress with respect to the closure of technical issues, schedule, and use of resources.

- Implementation of Resource Management Board meetings. During the last fiscal year, NRO held approximately 48 Resource Management Board meetings to determine whether project resource changes were warranted and how they could be efficiently and effectively integrated so as not to adversely affect progress on other projects.

- Continuation of efforts to recruit and retain a highly qualified, diverse workforce.

- Continuation of the implementation of a design-centered review approach to effectively review multiple COL applications in parallel. We believe this approach is crucial to achieving effective, efficient, and timely reviews for multiple applications. This approach is founded on the concept of "one issue-one review-one position for multiple applications" to optimize the review effort and resources needed to perform these reviews through the use of the design-centered approach.

Furthermore, the staff provides quarterly reports for Commission review. The quarterly reports provide a summary of the status of new reactor licensing activities for the quarter. The report outlines detailed information on the status of new reactor licensing reviews for design certifications, early site permits, and combined license applications for the quarter. It also provides information on regulatory infrastructure activities, advanced reactors, contracting activities, construction inspection activities, international activities, and cooperation between the NRC and U.S. Army Corps of Engineers. The Commission also reviews the progress and status of the new reactor licensing reviews through the Semiannual Report to Congress, which includes a section on the New Reactor Program.

In addition to the project management measures and status reporting described above, NRO management briefs the Commission periodically, in a public meeting, on the status of its licensing reviews. Furthermore, the New Reactor Office Director briefs me on a monthly basis on the New Reactor Program.

However, as stated in the response to item 2 and earlier here, the ability of the Commission and NRC staff to meet schedules is dependent on the ability of the COL applicants to provide complete and timely information to resolve NRC requests for information, and on the ability of the applicants for the design certifications (incorporated by reference in those COL applications) to support the established design certification review schedules.

Question 8.

> What assurances, if any, can you provide that the Commission is committed to ensuring that Commission staff, Atomic Safety and Licensing Boards, and the Commission establish and adhere to published schedules for completing reviews of COL applications?

Response 8.

The Commission receives information regularly on the staff schedules for completing COL application reviews and the potential challenges to meeting those schedules. In addition to the measures identified in the responses to items 3 and 7, the Commission closely monitors the conduct of proceedings to ensure that they are being concluded in a fair and timely fashion. The Commission will act, as appropriate, to provide guidance to the Boards and parties and to decide issues in the interest of a prompt and effective resolution of adjudicatory matters.

Question 9.

> What assurances, if any, can you provide that timely and efficient completion of COL application reviews and the licensing of new nuclear plants will be a priority for the Commission?

Response 9.

The timely and efficient completion of COL application licensing reviews is a Commission priority. The Commission developed a streamlined reactor licensing process under Part 52 for improved effectiveness and efficiency. Moreover, the Commission is overseeing the new reactor program and is ensuring that there are sufficient resources to accomplish the reviews in a timely and efficient manner with a focus on safety and security. Also, the Commission is briefed periodically by the NRC staff on the progress of its new reactor licensing activities.

Attachments:
NRC Issued Orders in Applicable Proceedings