February 24, 2000

Mr. S. E. Scace, Director
Nuclear Oversight and Regulatory Affairs
c/o Mr. David A. Smith
Northeast Nuclear Energy Company
P. O. Box 128
Waterford, CT 06385-0128

SUBJECT: ORDER APPROVING TRANSFER OF LICENSE FOR MILLSTONE NUCLEAR POWER STATION, UNIT 3, TO THE EXTENT HELD BY MONTAUP ELECTRIC COMPANY TO NEW ENGLAND POWER COMPANY AND CONFORMING AMENDMENT(TAC NO. MA5881)

Dear Mr. Necci:

The enclosed Order is in response to the application dated June 15, 1999, as supplemented July 20 and September 3, 1999, and January 18, 2000, filed by Montaup Electric Company (Montaup) and New England Power Company (NEP), and as supplemented November 29, 1999, by Northeast Nuclear Energy Company on behalf of NEP providing a conforming amendment request. In the application Montaup and NEP requested that the U.S. Nuclear Regulatory Commission (NRC) consent to certain license transfers that would be involved in connection with a proposed transfer of Montaup's minority ownership interest in the Millstone Nuclear Power Station, Unit 3 (Millstone 3) to NEP, and approve a conforming amendment, pursuant to Sections 50.80 and 50.90 of Title 10 of the *Code of Federal Regulations* (10 CFR 50.80 and 10 CFR 50.90). The application specifically requested the approval of:

(1) The direct and indirect transfers of the Millstone 3 license as held by Montaup that would result from the proposed merger of Eastern Utilities Associates (Montaup's ultimate parent company) with New England Electric System (NEES) (NEP's parent company) in which Montaup's ownership interest in Millstone 3 would be transferred to NEP upon completion of this merger, and

(2) The indirect transfer of the license relating to Montaup's Millstone 3 interest that would result from the merger of NEES and National Grid Group, plc (National Grid). The indirect transfer of the Millstone 3 license, to the extent currently held by NEP, that would be effected by the NEES-National Grid merger was addressed by the NRC under separate correspondence; the NRC approved that transfer on December 10, 1999.

The enclosed Order gives consent to the proposed direct and indirect transfers, subject to the conditions described therein. The Order also approves a conforming license amendment, which will be issued and made effective when the direct transfer involved is completed.

The application also sought approval under 10 CFR 50.80, if the NRC concluded that an indirect license transfer would occur as a result of a pending restructuring of Montaup's parent

organization. Under this restructuring, Eastern Utilities Associates (EUA), the parent of Montaup's direct parent company (Eastern Edison Company), would become the direct parent of Montaup. The NRC staff has concluded that no transfer of control will occur as a result of the restructuring since EUA will continue to indirectly control the Millstone 3 license to the extent held by Montaup. Thus, NRC approval in connection with the restructuring is not required under 10 CFR 50.80

Notice of the application for approval and an opportunity for a hearing was published in the Federal Register on January 19, 2000 (65 FR 2990). In addition to requesting approval of the above transfers involving Millstone 3, the application requested approval of any license transfers that would also occur as a result of the same merger transactions described herein, affecting Seabrook Nuclear Power Station (Seabrook), and Vermont Yankee Nuclear Power Station, Yankee-Rowe Nuclear Power Station, Maine Yankee Atomic Power Station, and Haddam Neck Plant (collectively the Yankee Plants). With regard to Seabrook, by Order dated August 3, 1999, the NRC approved the direct transfer of Montaup's interest in the Seabrook license to Little Bay Power Corporation, a subsidiary of Great Bay Power Corporation, and the conforming amendment was issued on November 19, 1999. This action moots the license transfer request under the current application as it relates to Seabrook and no further NRC action is necessary on this matter. For the Yankee Plants, the NRC has conducted a threshold review and determined no NRC approvals are required pursuant to 10 CFR 50.80. The NRC will address the threshold determination for the Yankee Plants under separate correspondence.

The Order has been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

John A. Nakoski, Senior Project Manager, Section 1
Project Directorate IV and Decommissioning
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-423

Enclosures: 1. Order
2. Conforming Amendment
3. Safety Evaluation

cc w/encls: See next page

organization. Under this restructuring, Eastern Utilities Associates (EUA), the parent of Montaup's direct parent company (Eastern Edison Company), would become the direct parent of Montaup. The NRC staff has concluded that no transfer of control will occur as a result of the restructuring since EUA will continue to indirectly control the Millstone 3 license to the extent held by Montaup. Thus, NRC approval in connection with the restructuring is not required under 10 CFR 50.80

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The Order has been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

John A. Nakoski, Senior Project Manager, Section 1
Project Directorate IV and Decommissioning
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-423

Enclosures: 1. Order
2. Conforming Amendment
3. Safety Evaluation

cc w/encls: See next page

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Unit 3

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Ms. Nancy Burton
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7590-01-P

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
NORTHEAST NUCLEAR ENERGY COMPANY, et al.	)	Docket No. 50-423
	)	
	)	
(Millstone Nuclear Power Station, Unit 3)	)	

ORDER APPROVING TRANSFER OF LICENSE AND CONFORMING AMENDMENT

I.

Northeast Nuclear Energy Company (NNECO) is authorized to act as agent for the joint owners of the Millstone Nuclear Power Station, Unit 3 (Millstone 3), and has exclusive responsibility and control over the physical construction, operation, and maintenance of the facility as reflected in Facility Operating License No. NPF-49. Montaup Electric Company (Montaup), one of the joint owners, currently owns a 4.0-percent interest in Millstone 3; New England Power Company (NEP), another of the joint owners, currently owns a 12.2-percent interest. The U.S. Nuclear Regulatory Commission (NRC) issued Facility Operating License No. NPF-49 on January 31, 1986, pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR Part 50). The facility is located in New London County, on the southern coast of the State of Connecticut.

II.

Under cover of a letter dated June 15, 1999, Montaup and NEP submitted an application requesting approval of the direct and indirect transfers of the license to the extent held by

Montaup in connection with its 4.0-percent ownership interest in Millstone 3, regarding a proposed acquisition of that interest by NEP. The June 15, 1999, application, which incorporated by reference a related application dated March 15, 1999, filed by NEP (NEP-National Grid submittal), was supplemented July 20, September 3, and November 29, 1999, and January 18, 2000 (collectively hereinafter "the application"). In addition, the application requested approval of a conforming amendment to reflect the direct transfer.

According to the application, on February 1, 1999, New England Electric System (NEES), the parent company of NEP, entered into an Agreement and Plan of Merger and Consent Agreement (Merger Agreement) with Eastern Utilities Associates (EUA), a Massachusetts business trust, which is the indirect parent of Montaup. Under the Merger Agreement, certain transactions will occur that will ultimately result in the indirect transfer of Montaup's interest in Millstone 3 to NEES and the direct transfer of that interest to NEP. NEP would then own a 16.2-percent interest in Millstone 3.

In addition, by virtue of a separate merger agreement between NEES and the National Grid Group, plc (National Grid), an indirect transfer of Montaup’s Millstone 3 license to National Grid would occur by virtue of National Grid acquiring NEES and, indirectly, NEP. NNECO, the sole licensed operator of the facility, would remain the managing agent for the joint owners of the facility and continue to have exclusive responsibility for the management, operation, and maintenance of Millstone 3. The application did not propose a change in the rights, obligations, or interests of the other joint owners of Millstone 3. In addition, no physical changes to Millstone 3 or operational changes were proposed.

The proposed conforming amendment, submitted by NNECO on behalf of NEP to address the proposed direct transfer of the license from Montaup to NEP with regard to NEP’s acquisition of Montaup’s 4.0-percent interest in Millstone 3, would remove references to

Montaup in the license and change the number of license holders as stated in the license from 14 to 13. NEP is currently referenced in the license as a licensee, given its existing 12.2-percent ownership interest in Millstone 3, and therefore would not need to be added to the license.

Approval of the above described license transfers and conforming license amendment was requested pursuant to 10 CFR 50.80 and 50.90. Notice of the application for approval and an opportunity for a hearing was published in the Federal Register on January 19, 2000 (65 FR 2990). No hearing requests were filed.

Under 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. Upon review of the information in the application, and other information before the Commission, the NRC staff has determined that (1) the merger between EUA and NEES will not affect the qualifications of Montaup as a holder of Facility Operating License NPF-49, (2) NEP is qualified to hold the license following the acquisition of Montaup's ownership interest in Millstone 3 by NEP, and (3) the acquisition of NEES by National Grid will not affect the qualifications of NEP to hold the license as proposed in the application; and that the direct and indirect transfers of the license, to the extent effected by the described mergers and acquisitions, are otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein.

The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the

activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed license amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations, and all applicable requirements have been satisfied. The foregoing findings are supported by a safety evaluation dated February , 2000.

III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954 (AEA), as amended, 42 USC §§ 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the direct and indirect license transfers referenced above are approved, subject to the following conditions:

(1) No later than the time the proposed NEES merger with National Grid is consummated, NEP shall establish and make operational a Special Nuclear Committee, as described in the NEP-National Grid submittal, having the composition, authority, responsibilities, and obligations specified in the NEP-National Grid submittal, provided, however, the Special Nuclear Committee may also have exclusive authority on behalf of NEP over taking any action which is ordered by the NRC or any other agency or court of competent jurisdiction. No material changes with respect to the Special Nuclear Committee may be made without the prior written consent of the Director, Office of Nuclear Reactor Regulation. The foregoing provisions may be modified by the Commission upon application and for good cause shown.

(2) The Special Nuclear Committee, once established in accordance with Condition (1) above, shall have the responsibility and exclusive authority to ensure, and shall ensure, that the business and activities of NEP with respect to the Millstone 3 license are at all times conducted in a manner consistent with the protection of the public health and safety and common defense and security of the United States.

(3) NEP shall provide the Director, Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from NEP to its current or proposed direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of NEP's consolidated net utility plant, as recorded on NEP's book of accounts.

(4) Should any of the proposed license transfers approved by this Order not be completed by February 28, 2001, this Order shall become null and void with respect to such transfer, provided, however, upon application and for good cause shown, such date may be extended.

It is FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), a license amendment that makes the changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject direct license transfer from Montaup to NEP is approved. Such amendment shall be issued and made effective at the time the proposed direct license transfer from Montaup to NEP is completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated June 15, 1999, and supplements dated July 20, September 3, and November 29, 1999, and January 18, 2000, the NEP-National Grid submittal dated March 15, 1999, and the safety

evaluation dated February 24, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site http://www.nrc.gov.

Dated at Rockville, Maryland, this 24th day of February 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

NORTHEAST NUCLEAR ENERGY COMPANY, ET AL.

DOCKET NO. 50-423

MILLSTONE NUCLEAR POWER STATION, UNIT NO. 3

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No.
License No. NPF-49

1. The Nuclear Regulatory Commission (the Commission) has found that:

   A. The application for amendment by Northeast Nuclear Energy Company[1], et al. (the licensee) dated November 29, 1999, based on the application dated June 15, 1999, as supplemented July 20, September 3, 1999, and January 18, 2000, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I;

   B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;

   C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;

   D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and

   E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations, and all applicable requirements have been satisfied.

---

[1]Northeast Nuclear Energy Company is authorized to act as agent for Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, Connecticut Municipal Electric Energy Cooperative, The Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, Public Service Company of New Hampshire, The United Illuminating Company, The Village of Lyndonville Electric Department, Western Massachusetts Electric Company, and Vermont Electric Generation and Transmission Cooperative, Inc., and has exclusive responsibility and control over the physical construction, operation, and maintenance of the facility.

2. Accordingly, the license is amended as indicated in the attachment to this license amendment.

3. This license amendment is effective as of the date of issuance and shall be implemented within 30 days of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Attachment: License Page 1

Date of Issuance:

2. Accordingly, the license is amended as indicated in the attachment to this license amendment.

3. This license amendment is effective as of the date of issuance and shall be implemented within 30 days of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Attachment: License Page 1

Date of Issuance:

ATTACHMENT TO LICENSE AMENDMENT NO. _____

FACILITY OPERATING LICENSE NO. NPF-49

DOCKET NO. 50-423

Replace the following page of Facility Operating License No. NPF-49, with the attached revised page. The revised page is identified by amendment number and contains marginal lines indicating the areas of change.

Remove	Insert
1	1

NORTHEAST NUCLEAR ENERGY COMPANY, ET AL.[1][2]

DOCKET NO. 50-423

MILLSTONE NUCLEAR POWER STATION, UNIT NO. 3

FACILITY OPERATING LICENSE

License No. NPF-49

I. The Nuclear Regulatory Commission (the Commission) has found that:

A. The application for license filed by Northeast Nuclear Energy Company, as agent and representative of 13 utilities listed below and hereafter referred to as licensees, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulation's set forth in 10 CFR Chapter 1, and all required notifications to other agencies or bodies have been duly made;

B. Construction of the Millstone Nuclear Power Station, Unit No. 3 (the facility) has been substantially completed in conformity with Construction Permit No. CPPR-113 and the application, as amended, the provisions of the Act, and the regulations of the Commission;

C. The facility will operate in conformity with the application, as amended, the provisions of the Act, and the regulations of the Commission, (except as exempted from compliance, see Section 2.D below);

D. There is reasonable assurance: (1) that the activities authorized by this operating license can be conducted without endangering the health and safety of the public, and (2) that such activities will be conducted in compliance with the Commission's regulations set forth in 10 CFR Chapter 1, (except as exempted from compliance, see Section 2D below):

---

(1) Northeast Nuclear Energy Company is authorized to act as agent and representative for the following Owners: Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, Connecticut Municipal Electric Energy Cooperative, The Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Massachusetts Municipal Wholesale Electric Company, New England Power Company, Public Service Company of New Hampshire, The United Illuminating Company, The Village of Lyndonville Electric Department, Western Massachusetts Electric Company, and Vermont Electric Generation and Transmission Cooperative, Inc., and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

(2) As a result of the Plan of Reorganization confirmed by the U.S. Bankruptcy Court for the District of New Hampshire, Public Service Company of New Hampshire has become a wholly owned subsidiary of Northeast Utilities.

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

PROPOSED TRANSFER OF OPERATING LICENSE FOR AND OWNERSHIP INTEREST IN

MILLSTONE NUCLEAR POWER STATION, UNIT 3, DOCKET NO. 50-423

FROM MONTAUP ELECTRIC COMPANY TO NEW ENGLAND POWER COMPANY

1.0 INTRODUCTION

Pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and Section 50.80 of Title 10 of the *Code of Federal Regulations* (10 CFR 50.80), by application dated June 15, 1999, as supplemented July 20, September 3, and November 29, 1999, and January 18, 2000 (hereinafter, the application), Montaup Electric Company (Montaup) and the New England Power Company (NEP) requested that the U.S. Nuclear Regulatory Commission (NRC) consent to certain direct and indirect license transfers in connection with the proposed transfer of Montaup's minority ownership interest in Millstone Nuclear Power Station, Unit 3, (Millstone 3) to NEP, and mergers between Eastern Utilities Associates (EUA), Montaup's indirect parent, and New England Electric System (NEES), the parent company of NEP, and between NEES and National Grid Group, plc (National Grid), a foreign corporation. Montaup and NEP each have minority, non-operating ownership interests in Millstone 3. Neither Montaup nor NEP has control of or conducts operating activities at Millstone 3.

The application also requested the NRC review and as necessary consent to any license transfers regarding the previously planned transfer of Montaup's interest in the Seabrook Nuclear Power Station (Seabrook) to NEP; and regarding Vermont Yankee Nuclear Power Station, Yankee-Rowe Nuclear Power Station, Maine Yankee Atomic Power Station, and Haddam Neck Plant (collectively the Yankee Plants), and the transfer of Montaup's equity interests in the Yankee Plants' licensees[1] to NEP. The NRC determined that for Seabrook, no further staff action was necessary since the requested action was mooted by the consummation of the transfer of Montaup's interest in Seabrook to Little Bay Power Corporation (Little Bay). The Montaup-Little Bay transfer was completed on November 19, 1999. For the Yankee Plants, the NRC conducted a threshold review and determined that its consent was not required pursuant to 10 CFR 50.80, and, therefore no further NRC action was necessary. However, in making the threshold review determination for the Yankee Plants, the NRC found that it appears that NEP will have the capability to meet the financial responsibilities attendant to NEP's interests in the licensees for the Yankee Plants, including NEP's additional interests being acquired from Montaup, notwithstanding the mergers described above, and the mergers will not adversely affect the management of the Yankee Plants. The NRC staff's threshold

[1]Montaup's and NEP's interests in the Yankee Plants are in the licensees that operate the facilities, not in the licenses or in the facilities for the Yankee Plants.

review determination and its findings for the Yankee Plants are consistent with the staff's analysis provided in this safety evaluation for the direct and indirect transfers of Montaup's license for Millstone 3 to NEP, NEES, and National Grid.

The application was filed because:

(1) The proposed merger of EUA (Montaup's ultimate parent company) with NEES (NEP's parent company) involves an indirect transfer of the Millstone 3 license as held by Montaup to NEES, and the accompanying proposed merger of Montaup with and into NEP, with NEP being the surviving entity, involves a direct transfer of the license to NEP, both transfers requiring Commission approval;

(2) The merger of NEES and National Grid involves an indirect transfer of the Millstone 3 license regarding Montaup's interest in Millstone 3 that requires Commission approval; and

(3) The applicants sought NRC approval in the event a planned restructuring of EUA's organization, under which the direct ownership of Montaup would change to EUA from Eastern Edison Company (Eastern Edison), a subsidiary of EUA, would effect an indirect transfer of the license.

The NRC staff has determined that the restructuring of the EUA corporate organization, under which Montaup would become directly owned by EUA (eliminating the direct ownership of Montaup by Eastern Edison), would not effect an indirect transfer of the Millstone 3 license as held by Montaup. At this time, EUA ultimately indirectly controls the license, and this situation would not change following the restructuring. Therefore, no NRC approval is required under 10 CFR 50.80 in connection with the EUA restructuring action.

On March 15, 1999, NEP and National Grid filed a request (NEP-National Grid submittal) with the NRC for approval under 10 CFR 50.80 in connection with the indirect transfer of control of NEP's existing interests in the Millstone 3 and Seabrook nuclear facilities that would result from the merger of NEES and National Grid (NEES-National Grid merger). The NRC's Orders approving the request were published in the Federal Register on December 27, 1999 (64 FR 72367). Because Montaup's minority ownership interest in Millstone 3 will be transferred to NEP upon completion of the EUA-NEES merger, the consummation of the NEES-National Grid merger will result in an indirect transfer of the Millstone 3 license, as now relating to Montaup's ownership interests, to National Grid.

As stated in the application, the changes in ownership associated with the proposed actions will not change the operation, management, license terms or conditions, or performance of Millstone 3. NEP will remain obligated to perform all of its current obligations, including decommissioning funding, but with a larger share after completion of the proposed actions. Even with Montaup's ownership interest, NEP will still hold only a minority interest in Millstone 3.

Millstone 3 is a 1,150 MWe pressurized-water reactor that began commercial operation in May 1986. Montaup currently owns a 4.0-percent interest and NEP currently owns a 12.2-percent interest. After the proposed merger of Montaup into NEP, NEP will own 16.2-percent interest in Millstone 3. Northeast Nuclear Energy Company (a subsidiary of Northeast Utilities) is the

licensed operator. The other owners are: Connecticut Light and Power (52.9 percent), Western Massachusetts Electric Company (12.2 percent), Massachusetts Municipal Wholesale Electric Company (4.8 percent), United Illuminating Company (3.7 percent), Public Service Company of New Hampshire (2.8 percent), Central Maine Power Company (2.5 percent), Central Vermont Public Service Corporation (1.7 percent), Chicopee Electric Light Department (1.35 percent), Connecticut Municipal Electric Energy Cooperative, Inc., (1.1 percent), Vermont Electric Generation and Transmission Cooperative, Inc., (0.35 percent), Fitchburg Gas & Electric Company (0.2 percent), and Lyndonville (Village of) Electric Department (0.04 percent).

2.0 BACKGROUND

EUA is a Massachusetts voluntary association organized and existing under a Declaration of Trust dated April 2, 1928, as amended, and is a registered holding company under the Public Utility Holding Company Act of 1935 (PUHCA). EUA subsidiaries are principally engaged in the following activities: transmission, distribution and sale of electricity; energy-related services such as energy management; and promotion of conservation practices and efficient use of energy. EUA delivers electric service to more than 305,000 customers in southeastern Massachusetts and parts of Rhode Island through its utility subsidiaries. Non-utility subsidiaries market energy efficiency services nationwide and invest in energy-related, non-regulated businesses.

EUA's electric distribution company affiliates include Eastern Edison, which serves approximately 186,000 customers in non-contiguous service territories covering southeastern Massachusetts. Another electric distribution company affiliate is Blackstone Valley Electric Company (Blackstone Valley), which serves approximately 86,000 customers in northern Rhode Island. Finally, Newport Electric Corporation (Newport) is an electric distribution company affiliate that serves approximately 33,000 customers in Rhode Island. Each of these companies originally entered into long-term, all-requirements power purchase contracts with Montaup. Although those contracts were recently amended, the purchasers under those contracts remain liable to pay charges to Montaup, including amounts sufficient to pay each purchaser's share of Montaup's decommissioning liability for Millstone 3.

Montaup is a wholly owned subsidiary of Eastern Edison, but, prior to the closing of the merger between EUA and NEES, Eastern Edison will transfer Montaup's common stock to Montaup's existing ultimate parent company, EUA. Montaup provides high voltage transmission service to Eastern Edison, Blackstone Valley, and Newport, as well as to two small non-affiliates. As part of the restructuring of the utility industry in Massachusetts and Rhode Island, Montaup and its retail affiliates have negotiated comprehensive settlement agreements with regulators in both States. These settlement agreements have been approved by the States as well as by the Federal Energy Regulatory Commission (FERC) in Docket Nos. ER97-2800-000, et al. Under these settlement agreements, Montaup has agreed to the complete divestiture of its generating business. Montaup has completed the sale of some of its generation assets and has signed purchase agreements for all of its remaining non-nuclear generating assets. It is also attempting to divest all of its nuclear assets, including Millstone 3.

EUA also owns EUA Cogenex Corporation, EUA Energy Investment Corporation, EUA Ocean State (which owns a 29.9-percent partnership interest in the Ocean State Power Generating Station in northern Rhode Island), EUA Service Corporation, and EUA Telecommunications.

NEES was formed in 1947 as a Massachusetts Trust and is headquartered in Westborough, Massachusetts. NEES is a registered holding company under PUHCA. Through its subsidiaries, NEES is principally engaged in the transmission, distribution, and sale of electricity, and the marketing of energy commodities and services. It serves 1.3 million customers in Massachusetts, New Hampshire, and Rhode Island. Through agreements with the State utility commissions that have jurisdiction over its subsidiaries, NEES divested itself of substantially all of its fossil and hydroelectric generating facilities. It plans to divest itself of all its ownership interests in nuclear facilities, including the facilities at issue in the pending application. The company is now focused almost exclusively on the transmission, distribution, and sale of electricity, rather than on generation.

NEP is a wholly owned subsidiary of NEES and is incorporated in Massachusetts. In the past, NEP's primary role had been to generate and transmit electricity for sale to its affiliates, which are the electric distribution companies. With the sale of substantially all of its fossil and hydroelectric generation, NEP's principal focus will be the transmission of electricity. NEP's integrated system consists of approximately 2,400 miles of transmission lines, 118 substations, and 7 pole or conduit miles of distribution lines. These facilities are spread throughout Connecticut, Massachusetts, Rhode Island, New Hampshire, and Vermont.

NEP's electric distribution company affiliates include Granite State Electric Company (Granite State), which serves 36,000 customers in New Hampshire; Massachusetts Electric Company (Massachusetts Electric), which serves 960,000 customers in an area covering 43 percent of the Commonwealth of Massachusetts; The Narragansett Electric Company (Narragansett), which serves 325,000 customers in Rhode Island; and Nantucket Electric Company, which serves 10,000 customers on Nantucket Island. Each company originally entered into an individual long-term, all-requirements power purchase contract with NEP. Although those contracts were recently amended, the purchasers under those contracts remain liable to pay charges to NEP, which include amounts sufficient to pay each purchaser's share of NEP's decommissioning liability for the nuclear facilities in which NEP holds an interest.

NEES owns NEES Energy, Inc., a power marketing subsidiary that owns AllEnergy Marketing Company, LLC, and New England Electric Transmission Corporation, which owns and operates a portion of an electric interconnection between Hydro-Quebec and New England. NEES also owns a 53.9-percent interest in New England Hydro Transmission Corporation and New England Hydro Transmission Electric Company, which own and operate facilities in connection with the second phase of the Hydro-Quebec interconnection. NEES also owns New England Power Service Company, which has contracted with NEES to provide, at cost, a variety of administrative and consulting services. NEES owns NEES Global, which provides consulting and independent power development services to non-affiliated companies, domestically and internationally. NEES owns New England Water Heater Company and NEES Communications, Inc., which provides telecommunications and information-related products and services.

National Grid is a public limited company incorporated under the laws of England and Wales and was created as a result of the privatization and restructuring of the British electric system in 1990. It is the only transmission company in England and Wales. National Grid has formed NGG Holdings LLC (NGG Holdings), a U.S. entity which is a limited liability company organized in Massachusetts and a wholly owned subsidiary of National Grid. Under the NEES-National Grid merger, NGG Holdings will merge with and into NEES, with NEES being the surviving

entity and maintaining its status as a U.S. entity subject to all applicable U.S. laws and regulations. Under the NEES-National Grid merger, NEES will become a wholly owned indirect subsidiary of National Grid.

3.0 FINANCIAL QUALIFICATIONS ANALYSIS

NEP has sold nearly all of its non-nuclear generating assets. It is seeking to sell the remainder, as well as its nuclear interests. As a result of its divestiture of the predominant portion of the generation assets, the company's business now is primarily that of a transmission company whose rates are regulated by FERC. Any remaining sales of electricity fall under cost of service contracts approved by FERC.

Currently, NEP has a 12.2-percent ownership interest in Millstone 3. Subsequent to the merger, NEP will absorb Montaup's 4.0-percent ownership interest in Millstone 3, increasing NEP's ownership interest to 16.2 percent.

NEP provided information that it will recover virtually the entire portion of the costs for Millstone 3 through rates set by regulators that allow an electric utility to recover its prudently incurred costs of generating, transmitting, and distributing electricity. Historically, NEP has provided the electric power requirements of its four retail distribution affiliates. As a result of restructuring initiatives by FERC and by the States of Massachusetts, Rhode Island, and New Hampshire, NEP agreed (1) to divest its generation assets (which it has already done to a significant extent), and (2) to release its retail affiliates from their all-requirements electric power contracts with NEP so they could provide retail open access, while NEP, in turn, is authorized to collect Contract Termination Charges (CTCs) from its four retail affiliates. Under these CTCs (described in more detail in Section 4.0 of this safety evaluation), NEP will be able to recover substantially all of its costs of generating electricity from Millstone 3 through cost-of-service based rates. The retail affiliates, in turn, are authorized to collect, through retail distribution rates approved by regulatory authorities, the CTCs that they are required to pay to NEP. The following information was culled from the application regarding NEP's ability to recover its costs:

1. The CTC is a regulated rate providing recovery of 100 percent of NEP's costs for nuclear decommissioning.

2. NEP is guaranteed through the CTCs the recovery of 80 percent of its share of the ongoing capital, operation, and maintenance expenditures of Millstone 3 on a cost-of-service basis.

3. NEP is allowed to recover the additional 20 percent of its share of the ongoing capital and operation and maintenance expenditures of Millstone 3 either through sales at market-based rates pursuant to tariffs approved by FERC or through earnings from its other utility operations.

4. NEP will continue to recover the costs of its transmission activities through cost-of-service rates regulated by FERC.

5. Montaup has almost identical agreements approved by or entered into with the State public commissions of Massachusetts and Rhode Island (Montaup having customers in

> those States), and FERC. Once the proposed merger is completed, NEP, as the successor to Montaup's ownership interest in Millstone 3, will take over Montaup's responsibilities attendant to that interest and be able to collect Montaup's former share of the operating and decommissioning costs through non-bypassable charges.

In its review, the staff considered the foregoing information provided by NEP in relation to the guidance contained in footnote eight (on page 9) of NUREG-1577, Rev. 1, which states:

> To the extent that power reactor licensees have received rate regulator approval to use market-based rates for a significant portion of their nuclear-related revenues (i.e., greater than 20 percent), the NRC will not consider them to be subject to traditional cost-of-service rate regulation for that portion of their rates.

Therefore, since NEP is guaranteed recovery, through regulator-approved CTCs, of 100 percent of its decommissioning costs and at least 80 percent of its share of capital, operation, and maintenance costs for Millstone 3, the staff concludes that NEP is subject to cost-of-service rate regulation for Millstone 3. Also, the staff concludes that NEP is subject to FERC cost-of-service regulation regarding recovery of its transmission costs. Based upon this information, the staff is satisfied that NEP has provided reasonable assurance that it is financially qualified to meet its financial obligations with respect to Millstone 3.

Additionally, the staff has confirmed that NEP has investment-grade bond ratings with Moody's and Value Line. Such a rating is a basis for finding applicants for operating licenses to be financially qualified, notwithstanding whether they are "electric utilities" as defined in 10 CFR 50.2. Since this criterion also is a basis for approving an applicant's financial qualifications for license transfers (see pages 5-6 of NUREG-1577, Rev. 1), the investment-grade bond rating of NEP further confirms the staff's finding that NEP meets NRC's financial qualifications requirements. Therefore, the NRC staff concludes that NEP is financially qualified to acquire Montaup's 4.0-percent ownership interest in Millstone 3, and hold a 16.2-percent total ownership interest.

With respect to the NEES-National Grid merger, the staff concludes that the merger will not adversely affect NEP's financial qualifications. The applicants state that the proposed merger will have no impact on the funds available for NEP to carry out activities under the Millstone 3 license. FERC will still regulate NEP's wholesale electric rates. NEP's retail electric rates will continue to be under the jurisdiction of the Massachusetts Department of Telecommunications and Energy, the Rhode Island Public Utilities Commission, the New Hampshire Public Utility Commission, the Connecticut Department of Public Utility Control, and the Vermont Public Service Board. In addition, the applicants state that the restructuring will have no adverse effect on NEP's capital structure or capital costs, and will not result in any change in NEP's wholesale or retail rates. Moreover, there will be no change in NEP's source of funds for its share of Millstone 3, including operating costs and eventual decommissioning costs for the unit.

Nothing in the application suggests that the merger of EUA into NEES would have any adverse impact on Montaup's financial qualifications during any momentary period before which Montaup's present interest in Millstone 3 is consolidated with NEP's.

In view of the NRC's concern that restructuring can lead to a diminution of assets necessary for the safe operation and decommissioning of a licensee's nuclear power plant, the NRC has conditioned certain license transfer approvals involving new parent companies or corporate structures upon a requirement that the licensee not transfer significant assets from the licensee to an affiliate without notifying the NRC. The following condition was imposed on NEP by Orders dated December 10, 1999, in connection with the NRC's approval of NEP's application under 10 CFR 50.80 relating to the NEES-National Grid merger:

> NEP shall provide the Director, Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from NEP to its proposed parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of NEP's consolidated net utility plant, as recorded on its books of account.

Since the application here involves the same NEES-National Grid transaction, the foregoing condition also is applicable and is incorporated into the order approving the application.

4.0 DECOMMISSIONING FUNDING

The NRC has determined that the requirements to provide assurance of decommissioning funding and provision of an adequate amount of decommissioning funding are necessary to ensure the adequate protection of public health and safety. Title 10 of the *Code of Federal Regulations*, Section 50.33(k) (10 CFR 50.33(k)) requires that an application for an operating license for a utilization facility contain information indicating how reasonable assurance will be provided that funds will be available to decommission the facility.

On September 22, 1998, the Commission issued a Final Rule in its Financial Assurance Requirements for Decommissioning Nuclear Power Reactors (63 FR 50465). In this rule, the Commission established "non-bypassable charges" as a method by which power reactor licensees may provide decommissioning funding assurance as a part of an external sinking fund in 10 CFR 50.75(e)(1)(ii)(B). As set forth in 10 CFR 50.2, non-bypassable charges are defined as:

> ... those charges imposed over an established time period by a Government authority that affected persons or entities are required to pay to cover costs associated with the decommissioning of a nuclear power plant. Such charges include, but are not limited to, wire charges, stranded cost charges, transition charges, exit fees, other similar charges, or the securitized proceeds of a revenue stream.

The application states that under the terms of the proposed merger of EUA and NEES, and Montaup into NEP, decommissioning responsibility will vest in NEP as the surviving licensed entity. Pursuant to settlement agreements approved by or entered into with the State public utility commissions of Massachusetts, Rhode Island, and New Hampshire, NEP having customers in those states, and FERC, NEP is permitted to recover decommissioning costs through non-bypassable charges of a nature that meets the Commission's requirements. Similarly, Montaup has almost identical settlement agreements approved by or entered into with

the State public commissions of Massachusetts and Rhode Island (Montaup having customers in those states) and FERC. NEP, as the successor to Montaup, will take over Montaup's responsibilities under these settlements and be able to collect Montaup's former share of the decommissioning costs through the non-bypassable charges. The necessary financial assurances for decommissioning are and will remain in place after the proposed merger.

The following is a description, by State, of the foregoing settlements and arrangements:

Massachusetts

On February 26, 1997, the agency known then as the Massachusetts Department of Public Utilities (MADPU) approved a revised, amended settlement submitted by NEP, NEP's affiliates Massachusetts Electric and Nantucket, and others, which related to electric restructuring issues and included provisions of a wholesale rate stipulation and agreement. Subsequently, Massachusetts Electric, Nantucket, and NEP submitted an amended offer of settlement to MADPU for approval. On May 16, 1997, Montaup and Eastern Edison filed the same type of comprehensive Offer of Settlement that NEP and its affiliates had filed.

Each of the settlement agreements at MADPU sought approval of retail delivery rates for the Massachusetts Distribution Utilities (Massachusetts Electric and Nantucket for NEP, and Eastern Edison for Montaup), which, among other things, included a non-bypassable access charge for recovering costs associated with termination of the all-requirements contracts between the Massachusetts Distribution Utilities and their affiliated Transmission Company (NEP or Montaup). The settlements provided that, in place of the former all-requirements contracts, the Transmission Company would collect a CTC, which would enable the respective company to recover its stranded costs. The CTC would, in turn, be collected by the Massachusetts Distribution Utilities through an access charge applied to all kilowatt-hours the Massachusetts Distribution Utilities delivered to customers in their service areas, whether or not the customers were customers at the time the settlement was approved.

Under the settlements, the CTC contained a fixed component that recovers the Massachusetts Distribution Utilities' allocated share of the Transmission Company's respective investment in plant, materials, supplies, and the final fuel core for their nuclear facilities. The variable component recovers 80 percent of the operations and maintenance expenses, capital additions, and property taxes for the units. The variable component also recovers 100 percent of the Massachusetts Distribution Utilities' allocated share of the Transmission Company's respective costs for nuclear decommissioning and site restoration costs.

NEP's settlement was approved by the MADPU. Similarly, Montaup's settlement was approved by the successor agency to the MADPU, the Massachusetts Department of Telecommunications and Energy, on December 24, 1997, in Docket No. D.T.E./D.P.U. 96-24.

On May 28, 1997, NEP submitted to FERC an amended wholesale stipulation and agreement, containing substantially the same settlement mechanism. On November 26, 1997, FERC approved the agreement. Montaup's wholesale settlement was filed

October 29, 1997, with FERC, and was approved in Docket No. ER97-3127-000 in a letter order dated December 19, 1997.

Rhode Island

On August 7, 1996, the Governor of Rhode Island signed into law the Utility Restructuring Act of 1996 (URA). The URA provides for customer choice of electricity supplier in several phases commencing July 1, 1997. To achieve this result, the URA requires that the former all-requirement relationships, such as between NEP and its affiliate (Narragansett) or Montaup and its affiliates (Blackstone Valley and Newport), be terminated and that the former wholesale power supplier be compensated through a CTC. The URA also provides for a non-bypassable transition charge of all retail customers, designed to provide full recovery of the former wholesale power supplier's stranded costs. A variable component of the transition charge is explicitly intended to recover "nuclear obligations including decommissioning costs and nuclear costs independent of operations" [R.I.G.L. c. 39-1-27.4(b)(ii)]. Both NEP and Montaup have entered into settlement agreements with their respective former all-requirements customers under the URA.

NEP entered into a settlement agreement with its customer, Narragansett, and the Rhode Island Public Utilities Commission (RIPUC) on May 30, 1997. Montaup entered into a similar settlement with the RIPUC and its former all-requirements customers, Blackstone Valley and Newport. Each settlement terminated the Transmission Companies' respective long-term, all-requirements contracts with their affiliates and established a CTC. The CTC includes recovery of the Rhode Island Distribution Utilities' allocated shares of decommissioning and site restoration costs. FERC approved each settlement agreement. The RIPUC has approved the Rhode Island Distribution Utilities' collection of the CTC through an access charge applied to all kilowatt-hours delivered to customers who receive distribution service in those companies' service areas, whether or not they were customers at the time of approval of the settlement.

New Hampshire

For New Hampshire, NEP adopted a CTC arrangement similar to those of Massachusetts and Rhode Island. On February 3, 1998, and as subsequently amended in July 1998, Granite State filed an offer of settlement before the New Hampshire Public Utility Commission to resolve electric restructuring issues related to retail choice in its service territory. The settlement provided that, pursuant to a separate wholesale rate settlement approved by FERC, the long-term all-requirements contract between NEP and its affiliate Granite State would be terminated and that Granite State would be permitted to recover in retail rates stranded costs charges, which would recover the CTC paid by Granite State to NEP. The stranded costs would apply to all kilowatt-hours delivered by Granite State to customers in its service area regardless of whether the customers were Granite State customers at the time the settlement was approved. The CTC provides for the recovery of Granite State's allocated share of NEP's nuclear decommissioning expenses. On October 7, 1998, the New Hampshire Public Utility Commission approved the amended offer of settlement in Order No. 23,041.

The NRC staff finds that pursuant to the settlements entered into with their Distribution Utilities, which were approved by FERC and the State public utility commissions of Massachusetts, Rhode Island, and New Hampshire, NEP and Montaup are assured that they will collect their decommissioning costs through non-bypassable charges. NEP will assume the arrangements entered into by Montaup upon consummation of the EUA-NEES merger and consolidation of the Montaup-NEP interests in Millstone 3. The proposed mergers of Montaup and NEP, EUA and NEES, and NEES and National Grid, will not modify these arrangements. Accordingly, the staff finds that there will be reasonable assurance of adequate decommissioning funding for the consolidated Montaup-NEP interest in Millstone 3 following the proposed mergers.

5.0 ANTITRUST REVIEW

The AEA does not require nor authorize antitrust reviews of post-operating license transfer applications. Kansas Gas and Electric Co., et al. (Wolf Creek Generating Station, Unit 1), CLI-99-19,49 NRC 441 (1999). Therefore, since the transfer application postdates the issuance of the Millstone 3 plant license, no antitrust review is required or authorized.

6.0 TECHNICAL QUALIFICATIONS

Northeast Nuclear Energy Company (a Northeast Utilities subsidiary) is the managing agent for and licensed operator of Millstone 3. The proposed transactions will not result in any modification to existing arrangements or impact the technical qualifications of the licensed operator of the facility. Since NEP is not authorized to operate Millstone 3, a review of its technical qualifications is not applicable here.

7.0 FOREIGN OWNERSHIP, CONTROL, OR DOMINATION

Section 103d of the AEA prohibits the Commission from issuing a license for a nuclear power plant under Section 103 to “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 at 10 CFR 50.38 contain virtually identical language to implement this prohibition.

The issue addressed in this section is whether, in the NRC staff’s view, the merger of NEES and National Grid will cause NEP to be owned, controlled, or dominated by foreign interests such that the foreign ownership and control prohibition of the AEA and the Commission's regulations would be violated. This question had already been addressed in the NRC staff's December 10, 1999, safety evaluation supporting the NRC's Order dated December 10, 1999, approving the indirect transfer of NEP's Millstone 3 license that would result from the NEES-National Grid merger, as published in the Federal Register on December 27, 1999 (64 FR 72367).

The Order dated December 10, 1999, approved NEP’s application dated March 15, 1999, as supplemented, which first notified the Commission of the pending NEES-National Grid merger. The March 15, 1999, application is incorporated by reference by NEP in the current application.

The merger of EUA into NEES, and the acquisition by NEP of Montaup’s current interest in Millstone 3, have no impact on the issue whether NEP, by reason of the pending NEES-

National Grid merger, would become owned by foreign interests within the meaning of the AEA and 10 CFR 50.38. NEP's supplement, dated January 18, 2000, to the current application, did not provide any information bearing on the foreign ownership issue that was not previously considered by the staff in its December 10, 1999, Order. Accordingly, the staff's conclusions reached in the safety evaluation supporting the December 10, 1999, Order remain valid, and the conditions imposed then pertaining to the foreign ownership issue likewise are applied here as part of the approval. They are as follows:

1. No later than the time the proposed NEES merger with National Grid is consummated, NEP shall establish and make operational a Special Nuclear Committee, as described in the NEP-National Grid submittal, having the composition, authority, responsibilities, and obligations specified in the NEP-National Grid submittal, provided, however, the Special Nuclear Committee may also have exclusive authority on behalf of NEP over taking any action which is ordered by the NRC or any other agency or court of competent jurisdiction. No material changes with respect to the Special Nuclear Committee may be made without the prior written consent of the Director, Office of Nuclear Reactor Regulation. The foregoing provisions may be modified by the Commission upon application and for good cause shown.

2. The Special Nuclear Committee, once established in accordance with Condition (1) above, shall have the responsibility and exclusive authority to ensure, and shall ensure, that the business and activities of NEP with respect to the Millstone 3 license are at all times conducted in a manner consistent with the protection of the public health and safety and common defense and security of the United States.

With the foregoing conditions, the staff concludes that NEP will not be owned, controlled, or dominated by foreign interests following the subject mergers and license transfers.

8.0 CONFORMING AMENDMENT

8.1 INTRODUCTION

By letter dated November 29, 1999, Northeast Nuclear Energy Company submitted a request for change to the Millstone 3 facility operating license. The requested change would remove Montaup from the license, and reflect the correct number of co-licensees. NEP is currently listed on the license, so no change is required to the license to add NEP as a result of the transactions described herein.

8.2 EVALUATION

The purpose of this license amendment is to conform the license to accurately reflect the proposed transfer. The proposed amendment involves only two changes, one to the list of the Millstone 3 owners on page one of the license, deleting Montaup, and the second correcting the number of co-licensees, from 14 to 13. The staff concludes that the amendment presents no safety questions and is administrative in nature. Accordingly, the proposed amendment is acceptable.

8.3 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

9.0 STATE CONSULTATION

In accordance with the Commission's regulations, the Connecticut State official was notified of the proposed issuance of the amendment. The State official had no comments.

10. ENVIRONMENTAL CONSIDERATION

The subject application is for approval of the direct and indirect transfers of a license issued by the NRC and approval of a conforming amendment. Accordingly, the action involved meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(21). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with approval of the application.

11.0 CONCLUSION

In view of the foregoing, the NRC staff concludes that with respect to the proposed merger of EUA with NEES, the direct transfer of Montaup’s ownership interests in Millstone 3 to NEP, and the NEES-National Grid merger, NEP is qualified financially concerning funding for operations and decommissioning, to acquire Montaup's interest in Millstone 3. Also, there will be no effect upon the technical qualifications of Northeast Nuclear Energy Company to operate the facility and NEP will not become owned, controlled, or dominated by an alien, foreign corporation, or foreign government. The NRC staff further finds that the proposed direct and indirect transfers are otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto, subject to the conditions discussed herein relating to the issue of foreign ownership and significant asset transfers.

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