

VERMONT YANKEE NUCLEAR POWER CORPORATION

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March 30, 2000
BVY 00-34

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555

- References:
- (a) Letter, USNRC to VYNPC, "Request for Additional Information Regarding License Transfer (TAC MA7875)," NVY 00-026, dated March 13, 2000.
 - (b) Letter, AmerGen Vermont, LLC and VYNPC to USNRC, "Application for Order and Confirming Administrative License Amendments for License Transfer," BVY 00-06, dated January 6, 2000.

**Subject: Vermont Yankee Nuclear Power Station
License No. DPR-28 (Docket No. 50-271)
Response to Request for Additional Information Regarding Transfer
of Facility Operating License No. DPR-28 to AmerGen Vermont, LLC**

Reference (a) requested Vermont Yankee Nuclear Power Corporation (VYNPC), the license transferor, to provide additional information in response to questions outlined in the enclosure to that letter. However, the requested information relates to the plans of the license transferee (AmerGen Vermont, LLC) regarding financial aspects of the transfer. Attachment 1 provides a written reply from AmerGen Vermont, LLC to each of the Staff's questions. Attachment 2 is also prepared by AmerGen Vermont and contains projected schedule information, including such items as Generation (in GWh), Operating Hours and Capital Additions, as requested by the Staff.

The financial information in Attachment 2 is considered proprietary by AmerGen Vermont, LLC. In accordance with 10CFR2.790(b)(1), an affidavit attesting to the proprietary nature of this information is included as part of Attachment 2.

The additional and supplemental information provided in Attachments 1 and 2 is administrative in nature and does not change the scope of the original Application or the conforming license amendment included as Enclosure 1 to Reference (b). VYNPC has evaluated the responses and associated information and hereby affirms that they do not change the conclusions of the safety assessment and the determination of no significant hazards consideration contained in Enclosure 2 to Reference (b).

APD1

AFFIDAVIT OF GERALD R. RAINEY

I, Gerald R. Rainey, Chief Executive Officer and Chief Nuclear Officer of AmerGen Vermont, LLC (AmerGen Vermont), do hereby affirm and state:

1. I am authorized to execute this affidavit on behalf of AmerGen Vermont.
2. AmerGen Vermont is providing information in response to questions forwarded under cover of a letter dated March 13, 2000, from Richard P. Croteau to Samuel L. Newton, related to its "Application for Order and Conforming Administrative Amendments for License Transfer (NRC Facility Operating License No. DPR-28)." The information being provided in an attachment to the response to Question 4 contains AmerGen Vermont's financial projections related to the continued operation of the Vermont Yankee Nuclear Power Station and constitutes proprietary commercial and financial information that should be held in confidence by the Nuclear Regulatory Commission (NRC) pursuant to the policy reflected in 10 CFR §§ 2.790(a)(4) and 9.17(a)(4) in that:
 - i. This information is and has been held in confidence by AmerGen Vermont.
 - ii. This information is of a type that is held in confidence by AmerGen Vermont, and there is a rational basis for doing so because the information contains sensitive financial information concerning AmerGen Vermont's projected revenues and operating expenses.
 - iii. This information is being transmitted to the NRC in confidence.
 - iv. This information is not available in public sources and could not be gathered readily from other publicly available information.
 - v. Public disclosure of this information would create substantial harm to the competitive position of AmerGen Vermont by disclosing AmerGen Vermont's internal financial projections, related to a unique transaction, to other parties whose commercial interests may be adverse to those of AmerGen Vermont.

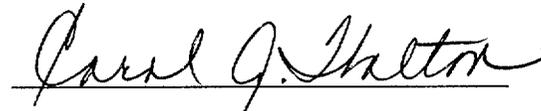
3. Accordingly, AmerGen Vermont requests that the information be withheld from public disclosure pursuant to the policy reflected in 10 CFR §§ 2.790(a)(4) and 9.17(a)(4).

AmerGen Vermont, LLC


Gerald R. Rainey
Chief Executive Officer &
Chief Nuclear Officer

STATE OF Penn
COUNTY OF Chester

Subscribed and sworn to me, a Notary Public, in and for the County and State above named, this 27th day of March, 2000.


My Commission Expires: _____

Notarial Seal
Carol A. Walton, Notary Public
Tredyffrin Twp., Chester County
My Commission Expires May 28, 2002
Member, Pennsylvania Association of Notaries

Attachment 1

Vermont Yankee Nuclear Power Station

**Response to Request for Additional Information Regarding Transfer of
Facility Operating License No. DPR-28 to AmerGen Vermont, LLC**

AmerGen Vermont Replies to Specific Staff Questions

NRC RAI Question No. 1

Regarding the "Letter Agreement Assuring Financial Obligations of AmerGen Vermont, LLC" (Enclosure 8 of the application), specifically how does AmerGen plan to assure the financial performance of AmerGen Vermont, pursuant to 10 CFR 50.33(f) and guidance in NUREG-1577, Rev 1? AmerGen is a relatively new company without significant, established levels of cash flow which could be made available to AmerGen Vermont if unusually high levels of funding support were needed. What assurance can AmerGen provide that it will be able to use, if needed for meeting the obligations of AmerGen Vermont, the funding commitment provided by AmerGen's parents (PECO and BE) of up to \$110 million for situations in which AmerGen's nuclear power plants require additional funding? Can AmerGen and AmerGen's parents offer specific and concrete statements of assurance that, if such funding were required by AmerGen Vermont, an amount of up to the \$110 million limit as specified in the letter agreements between AmerGen and its parents would be made available through AmerGen to AmerGen Vermont? Will any other financial assurances be offered by AmerGen's parents if the \$110 million is insufficient or has been consumed by other AmerGen nuclear plants? Also, what is meant by the phrase "without giving effect to conflict of law principles" at the end of the letter in Enclosure 8, in regard to (a) AmerGen's financial support of AmerGen Vermont and (b) any conflict of interests between the two entities?

Response

By letter dated February 17, 2000, AmerGen supplemented its letter in Enclosure 8 of the NRC License Transfer Application. As noted in that letter, AmerGen will provide funding to AmerGen Vermont at any time that the Management Committee of AmerGen Vermont determines that, in order to protect the public health and safety and/or to comply with NRC requirements, such funds are necessary to meet the ongoing expenses at VYNPS or such funds are necessary to safely maintain VYNPS. In addition to the funds AmerGen Vermont will have as a result of its own operations, the sources of funds at AmerGen disposal that will be available to AmerGen Vermont include: income from AmerGen's other plants, borrowing from commercial sources, and the \$110 million funding commitment from AmerGen's parents (PECO and BE). PECO and BE intend to increase the \$110 million funding component to \$200 million, and copies of letter agreements documenting this increased funding commitment will be provided to the NRC upon execution. AmerGen Vermont is not limited to the \$200 million funding level but can call on all the assets of AmerGen to the extent its own assets might prove insufficient.

NRC has previously approved the transfer of the licenses for Clinton and TMI-1 based, in part, upon the \$110 million guarantee, which is a source of funds beyond the regulatory requirement of five years of financial projections. There is no basis for believing that an outage at Vermont Yankee would be more costly than an outage at either of these plants. The planned \$200 million should be sufficient for the purposes of covering a six-month outage at Vermont Yankee, as well as simultaneous six month outages at other AmerGen plants.

The quoted phrase is included in the final sentence of the Letter Agreement Assuring Financial Obligations of AmerGen Vermont, LLC dated January 6, 2000, which reads as follows: "This Agreement shall be governed and construed in accordance with the laws of the State of Vermont without giving effect to conflict of law principles." Consultation with Counsel indicates that this sentence simply means that -- in all circumstances -- the Agreement is to be governed and construed in accordance with Vermont law, irrespective of what application of "conflict of law principles" would indicate. "Conflict of law" is basically that branch of jurisprudence, arising from the diversity of the laws of different states

or jurisdictions, which reconciles inconsistencies or decides which law or system is to govern in a particular case.

Thus, the sentence referenced above informs anyone reading it that the Agreement is to be interpreted in accordance with Vermont law (rather than, for example, the law of Pennsylvania, where the Agreement was signed.) The phrase quoted in the question is not directed to conflicts of interest.

NRC RAI Question No. 2

Regarding decommissioning funding assurance, pursuant to 10 CFR 50.75 and guidance in NUREG-1577, Rev. 1 since AmerGen Vermont expects to have at least \$280 million at the time of transfer of the Vermont Yankee license from VYNPC to AmerGen Vermont, and since \$328.3 million is estimated to be needed for decommissioning Vermont Yankee, how does AmerGen Vermont expect to assure that additional funding will be made available to AmerGen Vermont to cover decommissioning costs in the event that the facility were to be closed prematurely before much additional funding could be accumulated beyond the initial amount of at least \$280 million? Please explain how AmerGen Vermont would be able to rely adequately on AmerGen and sources of funds available to AmerGen for such purposes, or alternatively, would AmerGen Vermont be likely to delay decommissioning until the Vermont Yankee trust funds could accumulate sufficient earnings to pay the cost of decommissioning?

Response

In the event that Vermont Yankee were to be closed prematurely and available decommissioning funds were insufficient to commence decommissioning at that time, AmerGen Vermont would likely delay decommissioning until funds were accumulated to cover costs. As noted on page 25 of the Application, the current NRC formula amount for decommissioning is approximately \$328 million. As indicated in Enclosure 12 to the Application, this amount would be reached in 2007, based on a \$280 million fund at closing, and taking credit for a 2% annual real rate of return. Funding between the time of permanent cessation of operation and the start of decommissioning would be provided through the assets of AmerGen Vermont and, if necessary, funding from AmerGen from the profits on its plants and/or from the \$200 million available from the parent companies. AmerGen Vermont's right to access to such funding is affirmed in the February 17, 2000 letter agreement cited above.

NRC RAI Question No. 3

Regarding the amount of decommissioning funds of at least \$280 million expected to be transferred to the decommissioning trust funds for Vermont Yankee at closing, page 24 of the application states that "AmerGen Vermont will assure that the Fair Market Value of the funds is not less than \$280 million after the trust funds are transferred." Does this statement mean that the amount of "not less than \$280 million" is net of any expenses and of taxes on the funds that might be associated with the transfer? Please explain this answer in detail.

Response

AmerGen Vermont confirms that the \$280 million referenced in the NRC License Transfer Application is net of any expenses and of taxes on the funds due at the time of the transfer. It is the amount that will be paid to the trust funds, for the benefit of AmerGen Vermont, by the Vermont Yankee Nuclear Power Corporation. The money that comes from Vermont Yankee Nuclear Power Corporation will be in two funds: the Qualified Decommissioning Trust Fund and the Non-Qualified Decommissioning Trust Fund. Vermont Yankee Nuclear Power Corporation will assure that \$280 million is available to AmerGen Vermont. Please see the Vermont Yankee Asset Purchase Agreement Section 6.12 for additional details. The Net Cash Value referenced in Section 6.12 of the Asset Purchase Agreement is defined in Section 1.1 (1.02). AmerGen Vermont does not expect that it will incur tax liabilities associated with the trust funds that will become due at the time of the transfer. Certain tax liabilities associated with capital gains in the trust funds will be taken into account in determining the "Net Cash Value" of the funds transferred, and this may result in the market value of the assets transferred exceeding \$280 million.

NRC RAI Question No. 4

Regarding Enclosure 9A (which includes proprietary projections of AmerGen Vermont's income statement, balance sheet, and other financial data), one page of such data contained in the Clinton and Oyster Creek applications has not yet been supplied for AmerGen Vermont, which is projected schedule information, including such items as Generation (in GWh), Operating and Outage Hours, and Capital Additions. Please provide this information in the same or a similar format as provided in the Clinton and Oyster Creek applications.

Response

Attachment 2 provides the requested proprietary information for Vermont Yankee Nuclear Power Station in a format similar to the information provided for Clinton and Oyster Creek.

NRC RAI Question No. 5

Regarding the membership of the Management Committees of AmerGen and AmerGen Vermont (as referred to on pages 8-15 of the application), pursuant to the Final Standard Review Plan on Foreign Ownership, Control, or Domination approved by the Commission on August 31, 1999, please explain how members who serve on both Management Committees might be expected to resolve conflicts of interests between the two entities. For example, would such a member be expected to treat the interests of AmerGen Vermont as primary over those of AmerGen in a conflict situation?

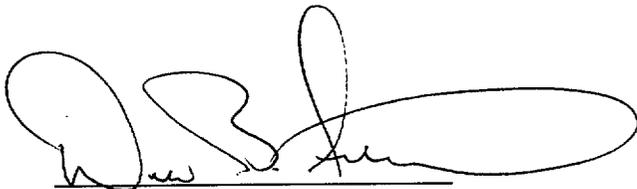
Response

As indicated on the referenced pages of the Application, two of the four members of the AmerGen Vermont Management Committee are also members of the AmerGen Management Committee: Gerald R. Rainey, a U. S. citizen; and Duncan Hawthorne, a U. K. citizen. Messrs. Rainey's and Hawthorne's duties as members of the AmerGen Vermont Management Committee are to AmerGen Vermont, and their duties as members of the AmerGen Management Committee are to AmerGen. However, the relationship between the two companies is established and governed by written agreements.

This coupled with the fact that AmerGen Vermont is a wholly owned subsidiary of AmerGen makes it unlikely that "conflicts of interests" would arise.

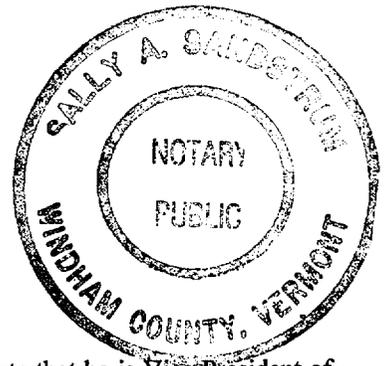
In particular, both AmerGen and AmerGen Vermont have an identical interest in ensuring the safe operation of Vermont Yankee. With regard to safety of operations, furthermore, the agreements in place provide voting supremacy and control to the PECO representative. Also, as noted in the February 17, 2000 letter, "AmerGen represents and warrants that it will provide funding to AmerGen Vermont at any time that the Management Committee of AmerGen Vermont determines that, in order to protect the public health and safety and/or to comply with NRC requirements, such funds are necessary to meet ongoing expenses at VYNPS or such funds are necessary to safely maintain VYNPS."

Additionally, both AmerGen and AmerGen Vermont have an identical interest in ensuring that the plant is run in an economical and profitable manner. The only "conflict" that could arise would be if AmerGen Vermont were to require financing from AmerGen in an amount AmerGen did not desire to provide. In such event, AmerGen would have the right, as reflected in the February 17, 2000 letter cited above, to demand that AmerGen Vermont cease operations. Such a decision would be a business decision unrelated to the safety of Vermont Yankee. The February 17, 2000 letter goes on to identify that "...AmerGen Vermont will nevertheless have the right to continue to obtain the funds necessary to assure the safe and orderly shutdown of VYNPS and continue the safe maintenance of VYNPS until AmerGen Vermont can certify to the NRC that the fuel has been permanently removed from the reactor vessel."



Drew B. Fetters
Vice President, AmerGen Vermont, LLC

STATE OF VERMONT)
)ss
WINDHAM COUNTY)



Then personally appeared before me, Drew B. Fetters, who being duly sworn, did state that he is Vice President of AmerGen Vermont, LLC, that he is duly authorized to execute and file the foregoing responses in the name and on the behalf of AmerGen Vermont, LLC, and that the statements therein are true to the best of his knowledge and belief.


Sally A. Sandstrum, Notary Public
My Commission Expires February 10, 2003