

September 11, 2000

Mr. James Knubel
Chief Nuclear Officer
Power Authority of the State of
New York
123 Main Street
White Plains, NY 10601

SUBJECT: NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY
OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION AND OPPORTUNITY FOR A HEARING,
JAMES A. FITZPATRICK NUCLEAR POWER PLANT (TAC NO. MA9848)

Dear Mr. Knubel:

Enclosed is a copy of a "Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing," for your information. This notice relates to your application for amendment dated August 29, 2000, as supplemented by letter dated September 8, 2000, in which you proposed to change Technical Specifications 3.0.D and 4.0.D to be equivalent to the BWR NUREG-1433 guidance for the Improved Technical Specifications LCO 3.0.4, which is currently under review.

This notice has been forwarded to the Office of the Federal Register for publication.

Sincerely

/RA/

Guy S. Vissing, Sr. Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-333

Enclosure: As stated

cc w/encl: See next page

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UNITED STATES NUCLEAR REGULATORY COMMISSIONPOWER AUTHORITY OF THE STATE OF NEW YORKDOCKET NO. 50-333NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TOFACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANTHAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-59, issued to the Power Authority of the State of New York, (the licensee), for operation of the James A. FitzPatrick Nuclear Power Plant, (FitzPatrick), located in Oswego County, New York.

The proposed amendment would incorporate the additional provisions of analogous Boiling-Water Reactor Technical Specifications Limiting Condition for Operation 3.04 and Surveillance Requirements 3.04 into Technical Specification 3.0.D and 4.0.D respectively. (The Boiling-Water Reactor Technical Specification was adopted in the licensee's request for converting the Current Technical Specifications to the Improved Standard Technical Specifications by letter dated March 31, 1999, and was noticed in the Federal Register (64 FR 66509)). The proposed amendment would permit proceeding from the run mode through the startup mode to the shutdown mode without the conditions of TSs 3.0.D and 4.0.D being met, a condition already permitted if required to comply with an Action requirement.

The exigent need for the proposed amendment to the TSs was the result of not having immediate availability of testing equipment needed to calibrate instruments that were required to be operable in the startup mode. Delaying the calibration of the instrumentation until the calibration equipment was made available would require several hours. It was considered

undesirable to delay transitioning from the run mode to the startup mode because (1) it was desirable to transition from the run mode to the startup mode as expeditiously as possible because the time to complete failure of the electro-hydraulic control system (EHC) hydraulic control oil pressure boundary was unknown, and (2) manually scrambling the reactor would adversely affect the degraded EHC system and therefore pose a significant challenge to the main condenser as a heat sink.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amendment (the Act) and the Commissions regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commissions regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change will not involve a significant increase in the probability or consequences of an accident any previously evaluated.

The proposed changes to the TS would permit proceeding from the Run Mode through the Startup Mode to the Shutdown Mode without the conditions of CTS [Current Technical Specifications] 3.0.D and 4.0.D being met, a condition already permitted if required to comply with an Action requirement. The proposed changes do not introduce a new condition or set of circumstances, they merely expand the applicability of existing TS provisions to cover unplanned shutdowns where continued operation would be imprudent, and where unnecessary transients associated with shutdown by manual scram can be avoided. As such, the proposed changes do not introduce new conditions and therefore, will not increase the probability or consequences of any previously evaluated accidents.

2. The proposed change will not create the possibility of a new or different kind of accident.

The proposed changes to the TS permit proceeding from the Run Mode through the Startup Mode to the Shutdown Mode without the conditions of CTS 3.0.D and 4.0.D being met, a condition already permitted if required to comply with an Action requirement. Since this condition is already permitted by TS, the proposed TS change cannot create the possibility of a new or different kind of accident.

Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change will not involve a significant reduction in a margin of safety.

The proposed changes to the TS do not introduce any new conditions for plant operation. By extending the existing Action requirement exception to CTS 3.0.D and 4.0.D to include plant shutdowns, prudent action to conduct an expeditious, controlled shutdown is permitted where appropriate. Such action reduces the potential of unplanned plant transients and reduces challenges to automatic initiation of safety systems.

Therefore, the proposed TS changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments

received. Should the Commission take this action, it will publish in the FEDERAL REGISTER a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 16, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available 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>). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if

proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Mr. David E. Blabey, 1633 Broadway, New York, New York 10019, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 29, 2000, as supplemented September 8, 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 11 day of September 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

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