

September 23, 1994

Mr. William J. Cahill, Jr.
Executive Vice President - Nuclear
Generation
Power Authority of the State of New York
123 Main Street
White Plains, NY 10601

SUBJECT: NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO FACILITY
OPERATING LICENSES, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION
DETERMINATION, AND OPPORTUNITY FOR A HEARING, INDIAN POINT
NUCLEAR GENERATING UNIT NO. 3 AND JAMES A. FITZPATRICK NUCLEAR
POWER PLANT (TAC NOS. M90429 AND M90430)

Dear Mr. Cahill:

The Commission has requested the Office of the Federal Register to publish the enclosed "Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing." This notice relates to your application for amendment dated September 16, 1994, which would revise Section 6.0 (Administrative Controls) of the Indian Point Nuclear Generating Unit No. 3 and FitzPatrick Nuclear Power Plant Technical Specifications to reflect, in part, management changes in your corporate organization. In addition, the list of Safety Review Committee (SRC) members is being deleted and replaced with a description of SRC membership requirements, including individual qualifications.

Sincerely,

Original signed by:

Michael J. Case, Acting Director
Project Directorate I-1
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

Docket Nos. 50-286
and 50-333

Enclosure: Notice of Consideration

cc w/encl: See next page

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

September 23, 1994

Mr. William J. Cahill, Jr.
Executive Vice President - Nuclear
Generation
Power Authority of the State of New York
123 Main Street
White Plains, NY 10601

SUBJECT: NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO FACILITY
OPERATING LICENSES, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION
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Sincerely,

A handwritten signature in cursive script that reads "Michael J. Case".

Michael J. Case, Acting Director
Project Directorate I-1
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

Docket Nos. 50-286
and 50-333

Enclosure: Notice of Consideration

cc w/encl: See next page

UNITED STATES NUCLEAR REGULATORY COMMISSION

POWER AUTHORITY OF THE STATE OF NEW YORK

DOCKET NOS. 50-286 AND 50-333

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO
FACILITY OPERATING LICENSES, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DRP-64 and DPR-59, issued to the Power Authority of the State of New York (the licensee), for operation of the Indian Point Nuclear Generating Unit No. 3 (Indian Point 3) located in Westchester County, New York, and the James A. FitzPatrick Nuclear Power Plant (FitzPatrick) located in Oswego County, New York, respectively.

The proposed amendments would revise Section 6.0 (Administrative Controls) of the Technical Specifications of both facilities to reflect, in part, licensee management changes. Specifically, the title of Executive Vice President - Nuclear Generation is being changed to Executive Vice President and Chief Nuclear Officer and a new position, Vice President Regulatory Affairs and Special Projects, which will report to the Executive Vice President and Chief Nuclear Officer, is being established. In addition, the list of Safety Review Committee (SRC) members is being deleted and replaced with a description of SRC membership requirements, including individual qualifications. Each SRC member, including the alternates, will have to be approved by the Executive Vice President and Chief Nuclear Officer.

William J. Cahill, Jr.
Power Authority of the State
of New York

cc:

Mr. Gerald C. Goldstein
Assistant General Counsel
Power Authority of the State
of New York
1633 Broadway
New York, NY 10019

Resident Inspector's Office
U. S. Nuclear Regulatory Commission
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Lycoming, NY 13093

Mr. Harry P. Salmon, Jr.
Resident Manager
James A. FitzPatrick Nuclear
Power Plant
P.O. Box 41
Lycoming, NY 13093

Mr. J. A. Gray, Jr.
Director Nuclear Licensing-BWR
Power Authority of the State
of New York
123 Main Street
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Supervisor
Town of Scriba
Route 8, Box 382
Oswego, NY 13126

Mr. Robert G. Schoenberger,
First Executive Vice President
and Chief Operating Officer
Power Authority of the State
of New York
123 Main Street
White Plains, NY 10601

Charles Donaldson, Esquire
Assistant Attorney General
New York Department of Law
120 Broadway
New York, NY 10271

Union of Concerned Scientists
Attn: Mr. Robert D. Pollard
1616 P Street, NW, Suite 310
Washington, DC 20036

James A. FitzPatrick Nuclear
Power Plant
Indian Point Nuclear Generating
Station Unit No. 3

Ms. Donna Ross
New York State Energy Office
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16th Floor
Albany, NY 12223

Regional Administrator, Region I
U. S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

Mr. Leslie M. Hill
Resident Manager
Indian Point 3 Nuclear Power Plant
P.O. Box 215
Buchanan, NY 10511

Mr. Peter Kokolakis, Director
Nuclear Licensing - PWR
Power Authority of the State
of New York
123 Main Street
White Plains, NY 10601

Resident Inspector
Indian Point 3 Nuclear Power Plant
U. S. Nuclear Regulatory Commission
P.O. Box 337
Buchanan, NY 10511

Mr. Charles W. Jackson
Manager, Nuclear Safety & Licensing
Consolidated Edison Company
of New York, Inc.
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Buchanan, NY 10511

Mayor, Village of Buchanan
236 Tate Avenue
Buchanan, NY 10511

Mr. Richard L. Patch, Director
Quality Assurance
Power Authority of the State
of New York
123 Main Street
White Plains, NY 10601

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

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facilities in accordance with the proposed amendments 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:

Operation of the FitzPatrick and Indian Point 3 nuclear power plants in accordance with the proposed amendment[s] would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change is purely administrative and does not involve plant equipment or operating parameters. There is no change to any accident analysis assumptions or other conditions which could effect previously evaluated accidents. The proposed change will not decrease the effectiveness of the organization's ability to respond to a design basis accident.
2. create the possibility of a new or different kind of accident from those previously evaluated. Since the proposed change is administrative in nature and does not involve hardware design or operation, it cannot create the possibility of a new or different kind of accident.
3. involve a significant reduction in the margin of safety. The authority and responsibilities of the Resident Managers and the Executive Vice President and Chief Nuclear Officer with respect to the safe operation and maintenance of the FitzPatrick and Indian Point 3 nuclear plant are not being reduced or otherwise changed.

The proposed changes do not reduce the effectiveness of the SRC as an oversight committee.

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 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 30-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 facilities, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve 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 and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room

6D22, 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 20555.

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

By October 31, 1994, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses 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 20555 and at the local public document rooms located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601 and the Penfield Library, State University of New York, Oswego, New York 13126. 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 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. The 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 a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. 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 amendments and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

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 amendments.

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, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Michael J. Case:

petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this FEDERAL REGISTER notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Charles M. Pratt, 10 Columbus Circle, 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 amendments dated September 16, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document rooms located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601 and the Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 23rd day of September 1994.

FOR THE NUCLEAR REGULATORY COMMISSION



Michael J. Case, Acting Director
Project Directorate I-1
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation