

May 6, 1991

Docket No. 50-423

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Mr. Edward J. Mroczka
 Senior Vice President
 Nuclear Engineering and Operations
 Connecticut Yankee Atomic Power Company
 Northeast Nuclear Energy Company
 Post Office Box 270
 Hartford, Connecticut 06141-0270

Dear Mr. Mroczka:

SUBJECT: NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY
 OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION
 AND OPPORTUNITY FOR A HEARING AND OPPORTUNITY FOR PUBLIC COMMENT
 ON ANTITRUST ISSUES (TAC NO. 79715)

Enclosed is the subject notice which is related to your request for license
 amendment for Millstone, Unit 3. The application for license amendment was
 dated March 21, 1991, and relates to your request to change the Millstone
 Unit 3 Facility Operating License to reflect the fact that Public Service
 Company of New Hampshire will be a wholly owned subsidiary of Northeast
 Utilities as of the merger date.

This notice is being forwarded to the Office of the Federal Register for
 publication.

Sincerely,

/s/

David H. Jaffe, Project Manager
 Project Directorate I-4
 Division of Reactor Projects - I/II
 Office of Nuclear Reactor Regulation

Enclosure:
 Notice

cc w/enclosure:
 See next page

OFC	: PDI-4:LA	: PDI-4:PM	: PDI-4:D	: PISB	: ENOLLER
NAME	: <i>Smalle</i>	: DJaffesh	: JFStolz	: A. Gody	: OGC
DATE	: 4/19/91	: 4/19/91	: 4/3/91	: 4/23/91	: 4/2/91

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Mr. E. J. Mrocza
Northeast Nuclear Energy Company

Millstone Nuclear Power Station
Unit No. 3

cc:

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Day, Berry and Howard
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Burlington, Vermont 05402

UNITED STATES NUCLEAR REGULATORY COMMISSIONNORTHEAST NUCLEAR ENERGY COMPANYDOCKET NO. 50-423NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING
AND OPPORTUNITY FOR PUBLIC COMMENT ON ANTITRUST ISSUES

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-49, issued to Northeast Nuclear Energy Company, et al (the licensee) for operation of the Millstone Nuclear Power Station, Unit 3, located at the licensee's site in New London County, Connecticut.

The proposed amendment would change Facility Operating License NPF-49, and authorize the transfer of Public Service Company of New Hampshire's (PSNH's) 2.875 percent ownership in Millstone Unit 3 to a newly formed and wholly owned subsidiary of Northeast Utilities (NU) as of the merger date. The new wholly owned subsidiary will also be called Public Service Company of New Hampshire.

Millstone Unit No. 3 is a nuclear-powered electric generating facility which has been constructed and is being operated by NNECO on behalf of 14 co-owners (a group of investor-owned and municipal utilities). The NRC Facility Operating License NPF-49 includes a list of co-owners. PSNH, one of the co-owners, is an electric public utility organized and operating under the laws of the State of New Hampshire.

Before issuance of the proposed license amendment, 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 request for amendment involves no significant hazards consideration. Under the Commission's 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.

The proposed change would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

As a result of the proposed license amendment, there will be no physical change to the Millstone Unit No. 3 facility and all limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications will remain unchanged. Also, the Millstone Unit No. 3 Quality Assurance Program and the Emergency Plan, Security Plan, and Operator Training and Requalification Program will be unaffected. In addition, there will be no changes to the operating organization or personnel as a result of the transaction described herein.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed amendment will not affect the physical configuration of Millstone Unit No. 3 or the manner in which it will operate. The Millstone Unit No. 3 plant design and design bases will remain the same. The current plant safety analyses will therefore remain complete and accurate in addressing the design basis events and in analyzing plant response and consequences.

The limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications for Millstone Unit No. 3 are not affected by the proposed license amendment. As such, the plant conditions for which the design basis accident analyses have been performed will remain valid. Therefore, the proposed license amendment cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. Since there will be no change in the physical design or operation of the plant, there will be no change to any of these margins. Thus, the proposed license amendment will 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 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. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications 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 P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. 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 June 12, 1991, 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

petition for leave to intervene. Request for a hearing and petitions 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 Room located at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360. 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 fifteen (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 fifteen (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 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 request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

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

Normally, the Commission will not issue the amendment 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 facility, the Commission may issue the license amendment before the expiration of the 30-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 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.

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., by the above date. Where petitions are filed during the last ten (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) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: (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 Gerald Garfield, Esquire, Day, Berry and Howard, City Place, Hartford, Connecticut 06103-3499, 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 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).

ANTITRUST ISSUES

Pursuant to 10 CFR 2.101 and 50.80 of the Commission's Regulations, the staff is publishing receipt of the licensee's request to transfer the stated ownership interest in Millstone Unit No. 3 from PSNH to the licensee.

Any person who wishes to express views relating to any antitrust issues believed to be raised by this transfer request should submit said views within 30 days of the initial publication of this Notice in the FEDERAL REGISTER to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief,

Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation. The Director of the Office of Nuclear Reactor Regulation will issue a finding whether significant changes have occurred since the completion of the previous antitrust review.

Although the staff is providing the opportunity for comments pursuant to the competitive aspects of the proposed transfer, the staff would like to note that it is aware of and is closely following the proceeding at the Federal Energy Regulatory Commission (FERC) that, among other concerns, is addressing competitive aspects of the proposed acquisition of PSNH by NU. The NRC will consider the FERC proceeding to the maximum extent possible in resolving issues brought before the NRC.

For further details with respect to this action, see the application for amendment dated March 21, 1991, 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 Room located at Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06103-3499.

Dated at Rockville, Maryland, this 6th day of May 1991.

FOR THE NUCLEAR REGULATORY COMMISSION



David H. Jaffe, Project Manager
Project Directorate I-4
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation