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Nuclear Management Company, LLC

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August 23, 2001

Rules and Directives
Branch
USNRC

66 FR 34293

6/27/01

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Chief, Rules and Directives Branch,
Division of Administrative Services,
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Re: Comments on Assessment of Impact of Industry Consolidation on
NRC Oversight

To Whom It May Concern:

Nuclear Management Company, LLC (NMC) is pleased to submit the attached comments in response to the Commission's request concerning the impacts of industry consolidation on NRC Oversight (66 FR 34293).

As you know, NMC is one of the major consolidators in the nuclear industry. We currently operate, under contract with their respective owners, eight nuclear units located in Minnesota, Wisconsin, Michigan and Iowa. We anticipate substantial additions to the NMC nuclear fleet over the next few years and eventual assumption of ownership of certain plants in the future.

We, therefore, have a vital interest in NRC's oversight of all activities affected by consolidation, particularly in the efficient handling of applications for license transfers. Our experience thus far in connection with the NRC's handling of our applications for license transfers is excellent. The NRC staff has been timely and responsive.

Template = ADM-013

E-RTDS = ADM-03
Cdd = H. BERKOW (#UB)

One of the themes in the Commission's Request for Comments is the effect of consolidation and deregulation on safety. NMC, in seeking the benefits of consolidation, is keenly aware that improved reliability and efficiency cannot be realized without an outstanding safety record. Accordingly, safety is our first priority.

Attached are additional comments addressed to other aspects of the Commission's Request for comments. We appreciate the opportunity afforded by the Commission to address these matters

Sincerely,

A handwritten signature in black ink that reads "Michael D. Wadley". The signature is written in a cursive style with a large, prominent initial "M".

Michael D. Wadley
Sr. Vice-President, Government Affairs
and Business Development

Attachment

NUCLEAR MANAGEMENT COMPANY

NRC REQUEST FOR COMMENTS ON IMPACTS OF CONSOLIDATION

August 23, 2001

Category 1 – Plant Operational Safety

Issue 1.a - Possible Cost Cutting Initiatives:

The staff correctly identifies that some of the principal benefits of consolidation derive from the economies of scale and that, in a competitive market, operators will seek means of operating more efficiently, eliminating duplicative functions, optimizing staff size and centralizing functions.

In our view, however, the benefits of consolidation cannot, and will not, be realized without maintaining primary and overriding emphasis on safe operations. We have dedicated ourselves to that principle. The Staff is correct in asserting that; “efficiently operated plants are also the safest plants.” NMC is fully in accord with this staff statement.

In addition, we believe that the new Reactor Oversight Process (ROP) has worked well and will prove equally effective in the era of consolidated operations.

We also urge that the Commission continue to develop and utilize risk-based approaches to licensing and regulation.

Issue 1.e - Emergency Preparedness:

The staff notes the efficiencies that may be achieved by centralizing certain emergency preparedness activities (e.g. communications with affected governmental agencies), but also refers to the possible detriment in having corporate activities remote from the plants, including less first-hand knowledge of the plant, the local plant organization and public safety local officials.

We believe that the staff's concerns should be carefully addressed. NMC has under consideration the possibility of further centralizing Emergency Offsite Facility (EOF) activities. NMC believes that consolidation will result in overall improvement in emergency response capabilities while accommodating the need to maintain relationships with state and local governments. Local expertise will be facilitated via thoroughly trained and qualified onsite EROs.

Category 2 – Licensing

Issue 2.d – NRC Organizational Structure

We support the recommended follow-up effort to obtain and assess relevant staff experience and stakeholder feedback concerning cross-regional, consolidated licensees. We also agree that this effort should be started in the near-term to gain the benefit from the insights that can be provided by the several cross-regional, consolidated licensees that already exist.

Category 3 – Inspection, Enforcement, and Assessment

Issue 3.a - NRC Reactor Oversight Process:

As we note above, the ROP has worked well and should continue to do so in the consolidated industry. The staff states that:

“ The corporate structure, ownership, and location of a particular plant should not affect the effectiveness of the ROP. While industry consolidation may offer efficiencies for the licensee, the assessment process under the ROP is based on performance results and not on how the licensees gain efficiencies.”

We agree with the staff's assessment.

We do not believe that further study is necessary to determine the need for an inspection module or “contingency plan” to be developed to facilitate evaluation of a licensee facing financial difficulties. Emphasis should continue to be placed on the development and evolution of the ROP such that it serves as a leading indicator to performance problems and will aid the NRC in identifying the need to review a licensee with financial difficulties. It is not appropriate for the NRC to be involved in the financial decisions of a licensee unless it is shown to be having an impact on safety.

Issue 3.c – NRC Enforcement Program

The discussion suggests that the Office of Enforcement may decide to increase its audit activities in an effort to minimize inconsistencies among the regions in implementing the enforcement program. As discussed under Issue 2.d – NRC Organizational Structure, would support efforts to obtain and assess relevant staff experience, as well as, stakeholder feedback concerning the impact of consolidation on the NRC’s regional offices.

Issue 3.d – NRC Allegations Program:

The discussion of the impact of consolidation on the allegations program is not entirely clear. We do not believe that a greater number of allegations will necessarily flow from consolidation activities. The statement in the report that, “The potential increased number of allegations, including discrimination complaints... may require additional resources dedicated to the allegation program” is speculative. Although the NRC may require some re-alignment to deal with issues that cross regional boundaries, the rationale for additional resources to deal with allegations is not apparent.

We agree that the NRC should continue to monitor the volume of allegations while the process of consolidation proceeds, but the monitoring should also include the scope and nature of the allegations.

NMC realizes the importance of a safety conscious work environment (SCWE) and is taking steps toward that end. NMC is developing a uniform corporate program to deal with this matter and our plants will maintain programs generally consistent with NMC corporate policies. Our present program is robust and is effectively implemented across the fleet of NMC plants. We address the SCWE challenges that arise from time to time and take proactive measures to improve performance when issues are identified. Measures in place include:

- Each site has a designated Employee Concerns Program (ECP) point of contact. We make use of postage paid mailers and hotlines.
- We make use of an outside investigator from time to time, depending on the issue. That investigator is also training a number of our internal ECP investigators.

- Leaders at each our sites will receive training this month in detecting and preventing retaliation in the workplace.
- A fleet-wide cultural assessment will be undertaken this month with the assistance of an experienced consultant.

We agree that consolidation calls forth a need for greater care in this area. NMC is fully committed to a fleet wide program that we believe will meet the challenge.

Category 7 – Financial

Issue 7.a – Foreign Ownership:

We agree that NRC regulations afford considerable leeway in dealing with foreign ownership issues. Nevertheless, we believe that since the rationale for the statutory constraint on foreign ownership has long since disappeared, the statute should be repealed. This would expedite global commerce in nuclear facilities without compromising non-proliferation concerns.

Issue 7.d – Joint and Several Regulatory Responsibility:

Although the Commission, in ruling last year, attempted to clarify its intent with respect to “joint and several liability” the substitute concept of “joint and several regulatory responsibility” is ambiguous and subject to the comparable uncertainty. As such, it could impair the development of efficient generating companies and similar enterprises. Rather than attempt to capture its intent in a brief phrase (which bears a disturbing similarity to “joint and several liability,”) we believe the Commission should make clear the exact intent of the language adopted in its July 2000 ruling.

Issue 7.f – Financial Qualifications:

We concur with the staff position that present NRC practice with respect to the determination of financial qualifications is satisfactory. It is appropriate, however, that these practices are subject to periodic review to account for changes in the industry as consolidation proceeds.

Category 8 – Non-NRC Regulatory Considerations

Issue 8.b – Antitrust Considerations

We commend the Commission for its action to amend its regulations to clarify that it will no longer require owners of operating nuclear power plants to include antitrust information in license transfer applications, eliminating duplication of a review performed by other federal and state agencies. The Commission's holding that the Atomic Energy Act does not require or even authorize antitrust reviews of post-operating license transfers is plainly correct as a matter of law and policy. We also agree with the Commission's assessment that for the same policy reasons that allowed the elimination of post-operating license transfers the antitrust reviews by the Commission of initial operating license applications for new facilities should be eliminated. The Commission should continue to seek legislation to eliminate all Commission antitrust reviews.