

January 22, 2004

Mr. John L. Skolds  
Chairman and CEO  
AmerGen Energy Company, LLC  
4300 Winfield Road  
Warrenville, IL 60555

SUBJECT OYSTER CREEK NUCLEAR GENERATING STATION (OCNGS) - AUDIT OF  
THE LICENSEE'S MANAGEMENT OF REGULATORY COMMITMENTS  
(TAC NO. MB9725)

Dear Mr. Skolds:

On May 27, 2003, the Office of Nuclear Reactor Regulation Office Instruction LIC-105, "Managing Regulatory Commitments Made by Licensees to the NRC [Nuclear Regulatory Commission]," was published. LIC-105, which is publicly available electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site (Accession Number ML022750041), provides the NRC staff and its stakeholders with a common reference for handling regulatory commitments made by licensees for commercial nuclear reactors to the NRC staff. The guidance is consistent with the industry guidance prepared by the Nuclear Energy Institute (NEI), NEI 99-04, "Guidance for Managing NRC Commitment Changes." LIC-105 specifies that once every 3 years, the NRC staff will audit a licensee's commitment management program.

An audit of OCNGS's commitment management program was performed at AmerGen's office in Kennett Square, PA, on January 7, 2004. The NRC staff concludes that, based on the audit (1) OCNGS had implemented NRC commitments on a timely basis; and (2) OCNGS had implemented an effective program for managing NRC commitment changes. Details of the audit are set forth in the enclosed audit report.

Sincerely,

**/RA/**

Peter S. Tam, Senior Project Manager, Section 1  
Project Directorate I  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket No. 50-219

Enclosure: As stated

cc w/encl: See next page

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AUDIT REPORT BY THE OFFICE OF NUCLEAR REACTOR REGULATION (NRR)

REGULATORY COMMITMENTS MADE BY THE LICENSEE TO

THE NUCLEAR REGULATORY COMMISSION (NRC)

OYSTER CREEK NUCLEAR GENERATING STATION (OCNGS)

DOCKET NO. 50-219

1.0 INTRODUCTION AND BACKGROUND

On May 27, 2003, the NRR Office Instruction LIC-105, "Managing Regulatory Commitments Made by Licensees to the NRC," was published. LIC-105, which is publicly available electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site (Accession Number ML022750041), provides the NRC staff and its stakeholders with a common reference for handling regulatory commitments made by licensees for commercial nuclear reactors to the NRC staff. The guidance is consistent with the industry guidance prepared by the Nuclear Energy Institute (NEI), NEI 99-04, "Guidance for Managing NRC Commitment Changes."

According to LIC-105, which cites the definition from NEI-99-04, a "regulatory commitment" is an explicit statement to take a specific action agreed to, or volunteered by, a licensee and submitted in writing on the docket to the NRC. LIC-105 further directs the NRR Project Manager to "audit the licensee's commitment management program by assessing the adequacy of the licensee's implementation of a sample of commitments made to the NRC in past licensing actions (amendments, reliefs, exemptions, etc.) and activities (bulletins, generic letters, etc.)." The audit is to be performed every 3 years.

2.0 AUDIT PROCEDURE AND RESULTS

Since no such audit was performed before issuance of LIC-105, the NRC staff defined the period covered by this audit to go back approximately 3 years from the date of the audit. The audit was performed at AmerGen offices in Kennett Square, PA, on January 7.

2.1 Verification of Licensee's Implementation of NRC Commitments

The primary focus of this part of the audit is to confirm that the licensee has implemented those commitments made to the NRC as part of past licensing actions/activities. For commitments that had not yet been implemented, the NRC staff aimed to ascertain that they have been captured in an effective program for future implementation.

Enclosure

### 2.1.1 Audit Scope

Before the audit, the NRC staff searched ADAMS for the licensee's licensing action and licensing activity submittals dated in the last 3 years. Some of these submittals contain regulatory commitments, but the NRC staff found that commitments meeting the definition in LIC-105 are few in number. Table 1 lists most, if not all, of the licensee's commitments.

OCNGS commitments are tracked by a total of three programs: Plant Information Management System Commitment Tracking, Passport, and Lotus Notes. The proliferation of tracking programs has to do with the fact that ownership of OCNGS was acquired from the former owner and transferred to AmerGen, an Exelon subsidiary. AmerGen/Exelon is continuing the effort of converting the processes, including the commitment tracking programs, to the "Exelon way." The NRC staff, thus, aimed to ascertain that commitments had not "fallen thru the crack" because of multiple tracking programs, and the past transfer of ownership. During the audit, the NRC staff reviewed reports generated by all three tracking programs, and other documents related to the commitments.

LIC-105 limits the audit of commitments to those made in writing to the NRC as a result of past licensing actions (amendments, exemptions, etc.) or licensing activities (bulletins, generic letters, etc.). Accordingly, the audit excluded the following types of commitments:

- (1) Commitments as a result of Licensee Event Reports (LER)s - These commitments are controlled by the licensee's LER process, which is imposed by Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.73.
- (2) Commitments made on the licensee's own initiative among internal organizational components.
- (3) Commitments that pertain to milestones of licensing actions/activities (e.g., respond to an NRC request for additional information by a certain date). Fulfillment of these commitments was indicated by the fact that the subject licensing action/activity was completed.
- (4) Commitments made as an internal reminder to take actions to comply with existing regulatory requirements such as regulations, Technical Specifications, and Updated Final Safety Analysis Reports. Fulfillment of these commitments was indicated by the licensee having taken timely action in accordance with the subject requirements.

### 2.1.2 Audit Results

The NRC staff reviewed reports generated by one or more of the three tracking programs for the commitments listed in Table 1 to evaluate the status of completion. The NRC staff found that the licensee's commitment tracking programs had captured all the regulatory commitments that were identified by the NRC staff before the audit.

The NRC staff also reviewed plant procedures that had been revised as a result of commitments made by the licensee to NRC. These procedures are identified in the right-hand column of Table 1. The NRC staff noted that some of the revised procedures have annotations to refer to commitments. These annotations would serve to prevent future procedure writers from inadvertently deleting or altering an item without having gone thru the commitment change process. The NRC staff noted that some revised procedures had not yet been annotated, but the licensee showed that they were all in the process of being revised again to have annotations added if the commitments are relatively recent. The licensee indicated that the former owner and operator of OCNCS did not have requirements for commitment annotations in the procedures; however, the cost to retrofit all the procedures with commitment annotations would be prohibitive, according to the licensee. The NRC staff has no reason to dispute this claim, and has no reason to insist on such retrofit.

Table 1 summarizes what the NRC staff observed as the current status of licensee commitments.

## 2.2 Verification of the Licensee's Program for Managing NRC Commitment Changes

The NRC staff reviewed the licensee's procedure entitled "Commitment Management," LS-AA-110, Revision 2, against NEI 99-04. In particular, in regards to managing a change or deviation from a previously completed commitment, Subsection 4.5.1 specifically refers to the guidance of NEI-99-04. Attachments 1 and 2 of LS-AA-110, Revision 2, provide details regarding making changes to a commitment. In general, LS-AA-110, Revision 2, follows closely the guidance of NEI-99-04: it sets forth the need for identifying, tracking and reporting commitments, and it provides a mechanism for changing commitments.

The effectiveness of a procedure can be indicated by the products that are produced by the procedure. As set forth in Section 2.1 above, the NRC staff found that the licensee had properly addressed each regulatory commitment selected for this audit. As a result of review of the licensee's information, as well as information from other sources, the NRC staff found no reason to differ from the licensee's reported status of the audited commitments. Thus, the NRC staff surmises that the procedure used by the licensee to manage commitments is appropriate and effective.

## 3.0 CONCLUSION

The NRC staff concludes that, based on the above audit, (1) the licensee had implemented or is tracking for future implementation regulatory commitments; and (2) the licensee had implemented an effective program to manage regulatory commitment changes.

## 4.0 LICENSEE PERSONNEL CONTACTED FOR THIS AUDIT

D. Helker  
D. Robillard

Principal Contributor: P.S. Tam

Date: January 22, 2004

TABLE 1 (page 1 of 2)

AUDITED: WRITTEN COMMITMENTS AND RELATED INFORMATION  
(2000 THROUGH 2003)

OCNGS Submittal	NRC TAC No.	NRC Issuance	Summary of Commitment, and Licensee's Tracking Number**	Licensee Implementation Status
9/15/00, 2130-00-20240	MA8492	Amend. No. 216, 10/25/00	Revise the 10 CFR 50.65 Maintenance Rule Performance Criteria to ensure excess flow check valve performance remains consistent with extended surveillance interval.  00032.01	Complete  Maintenance Rule Controlled Database under System 247, which is controlled by procedure number OC-7, "OC Work Performance Standard"
4/4/01, 2130-01-20042	MB1747	Amend. No. 223, 1/23/02	Revise procedure to (1) prevent heavy load travel over "hot" fuel; (2) minimize length of travel of heavy load over spent fuel; (3) continue to follow guidelines of NUREG-0612, Phase 1.  01037.01	Complete*  Procedure 2400-SMM-3891.04
11/27/02	MB6920	Amend. No. 237, 4/4/03	(1) Establish contingency plans in procedures to obtain and analyze highly radioactive samples; (2) Develop capability to classify fuel damage events; (3) Develop capability to monitor radioactive iodine species.  A2028361	Complete*  (1) Procedure 831.4, 7, 9, 10, 11 (2) Procedure 831.8 (3) EPIP-OC-10 and -11
1/23/03, 2130-03-20026	MB7349	Letter, D. Pickett to J. L. Skolds, 10/28/03	AmerGen will provide final copies of the trust agreement to the NRC.  A1405939	Complete  Exelon letters of 3/19/03 and 7/29/03, signed by Gallagher
3/10/03, 2130-03-20057	MB7989	Under review	Change the Nuclear Emergency Plan and procedures to reflect NRC's approval of the revised Emergency Action Levels	Commitment to be tracked when the requested approval is issued.
4/21/03, 2130-03-20058	MB8481	Under review	Revise existing commitment to IEEE Standard 450, "IEEE Recommended Practice for Maintenance, Testing, and Replacement of Vented Lead-Acid Batteries for Stationary Applications," to reflect commitment to the 1995 edition of IEEE Standard.	Commitment to be tracked when requested amendment is issued.

TABLE 1 (page 2 of 2)

OCNGS Submittal	NRC TAC No.	NRC Issuance	Summary of Commitment, and Licensee's Tracking Number**	Licensee Implementation Status
12/9/03, 2130-03-20274	MB9832	Waiting for licensee's amendment application	Submit a revised application for amendment using the alternate source terms and revised analytical methodology by 12/31/04.  AR00189765	Pending
12/2/03, 2130-03-20250	MC1453	Under review	Within 60 days of issuance of the requested amendment, establish the Technical Specification Bases for Surveillance Requirement 4.0.2 to reflect the amendment.	Commitment to be tracked when requested amendment is issued.
12/9/03, 2130-03-20274	MB9832	Under review	Implement plant procedures by 3/31/04 regarding use of self-contained breathing apparatus when chlorine is detected in the Control Room Envelope.  A2065041	Pending
12/9/03, 2130-03-20274	MB9832	Waiting for licensee's amendment application	Submit an application for amendment to add a new Section 6.0 administrative program requirement for control room habitability by 9/30/04.  189765	Pending

\*Except that the cited procedures will need to be annotated (i.e., marked with commitment number) such that future procedure writers would not inadvertently delete or alter items covered by commitments without going thru the commitment change process.

\*\*The tracking numbers show three different styles, reflecting three different tracking programs used by the licensee.

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