

March 19, 2004

Ms. Patricia D. Ryan, CMC
City Clerk
City of Bordentown
324 Farnsworth Avenue
Bordentown, NJ 08505

Dear Ms. Ryan:

I am responding on behalf of the Nuclear Regulatory Commission (NRC) to the City of Bordentown's Board of Commissioners Resolution 2004-33, dated February 9, 2004. The resolution expressed the Board of Commissioners opposition to extending the operating license of the Oyster Creek Nuclear Generating Station (OCNGS), owned and operated by AmerGen Energy Company, LLC (AmerGen), in Lacey Township, New Jersey, and requested that OCNGS be decommissioned as soon as practically possible.

The NRC requires that AmerGen (the licensee) comply with all the conditions set forth in the license as well as all applicable NRC regulations. NRC monitors licensee performance through our Reactor Oversight Program (ROP), and documents findings in inspection reports and other assessment documents. In our most recent summary assessment of OCNGS dated March 3, 2004, we found that plant performance for the most recent quarter was within the Licensee Response Column of the NRC Action Matrix. This classification indicates that OCNGS has operated safely and merits regulatory attention consistent with our baseline inspection program. Information on our ROP, including additional information on Oyster Creek performance, can be found on the NRC's website at <http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/index.html>.

In the resolution, the Board of Commissioners raised concerns about the age of OCNGS. NRC requires plant operators to continuously test and monitor the condition of safety equipment and to keep equipment in top condition. NRC has also required licensees to correct design deficiencies that could impact plant safety. While OCNGS has been in operation since December 1969, over the years, the licensee has replaced many pieces of equipment and performed overhauls of other plant equipment. The licensee has also installed new, more modern systems to replace or supplement original systems that are obsolete or no longer considered adequate.

In addition to the age of OCNGS, the resolution mentioned that design standards had changed dramatically since OCNGS was constructed. The NRC frequently updates its regulations as a result of improvements to technology and based on operating experience. When requirements are changed, the NRC applies a rigorous evaluation standard to determine if the safety benefit of the new requirements justifies imposing the changes on existing licensees. For example, OCNGS was designed and constructed before the General Design Criteria (GDC) were promulgated by the Atomic Energy Commission on July 11, 1967. The final GDC were made a part of the NRC's regulations on February 20, 1971. When the final GDC were approved, the Commission stressed that the final GDC were not new requirements and were promulgated to more clearly articulate the licensing requirements and practice in effect at that time. Each plant

licensed before the final GDC were formally adopted, including OCNGS, was evaluated by the NRC on a plant-specific basis, and was determined to be safe. The Commission determined that imposing the final GDC on these plants would provide little or no safety benefit while requiring an extensive commitment of resources. In other cases, the Commission has imposed new regulations on nuclear facilities based on the substantial increase in safety that would be provided (e.g., environmental qualification of electrical equipment).

The current license for OCNGS expires on April 9, 2009. In a press release dated February 19, 2004, AmerGen announced its intention to seek renewal of the OCNGS operating license for a period of up to twenty (20) years. However, AmerGen has not yet submitted an application for NRC review. Accordingly, NRC cannot at this time make any statement about a pending application. Should the NRC receive an application in the future, the NRC staff will review both the safety and environmental issues associated with this license renewal. Specifically, the licensee must provide the NRC with an evaluation that addresses the technical aspects of plant aging and must describe how the aging will be managed. In addition, the licensee must prepare an evaluation of the potential impact on the environment to support plant operation for the additional 20 years. License renewal is a process open to public participation in a number of ways, including public meetings and the opportunity for adjudicatory hearings. See the NRC website at <http://www.nrc.gov/reactors/operating/licensing/renewal.html> for more information.

Regarding your concern about emergency evacuation, Federal regulations require that comprehensive emergency plans be prepared and periodically exercised to assure that actions can and will be taken to notify and protect the public in the vicinity of a nuclear facility in the event of a radiological emergency. While the NRC has overall responsibility for nuclear safety, the Federal Emergency Management Agency (FEMA) takes the lead in reviewing and assessing offsite planning and response and in assisting State and local governments. Federal evaluation of emergency preparedness is an ongoing process. Commercial nuclear power plants and offsite response authorities are required to regularly conduct exercises to demonstrate their ability to implement their emergency plans. Based on the most recent full-scale emergency exercise for Oyster Creek, conducted in September 2003, both FEMA and NRC determined that the plans in place for the plant provide reasonable assurance that the public would be protected. We also recognize that emergency plans must be regularly reviewed and improved. In this regard, it is our understanding that the evacuation time estimates for the affected communities around OCNGS are currently being updated using the latest Census data.

You also raised a concern about the vulnerability of the facility and spent fuel, stored in the spent fuel pool and dry cask storage facility, to terrorist attacks. The NRC applies a fundamental defense-in-depth strategy for nuclear facilities such as OCNGS to protect public health and safety. The strategy encompasses design, construction, operation, training, event mitigation, and contingency planning, including emergency planning. Nuclear facilities are robust structures, constructed of thick concrete-reinforced walls and stainless steel liners. While these facilities were not specifically designed against the impact of the jumbo jets of today, they were designed to withstand the significant forces associated with earthquakes, hurricanes and tornadoes. As a result of the terrorist attacks of September 11, 2001, the NRC has increased its focus on security and emergency preparedness at nuclear power plants. Contingency measures are in place to address situations associated with a terrorist attack on the facility. Additional information on emergency preparedness, potential health effects, and actions taken since September 11th can also be found on the NRC website (<http://www.nrc.gov>).

Regarding your concern that the containment system could be bypassed in the event of a severe reactor accident, we note that OCNCS installed a hardened vent on the containment torus air space in the early 1990s to address this concern. In the remote event that the containment will require venting after an accident, the hardened plant vent design allows operators to reduce the pressure in the containment before any core damage occurs; therefore, limiting the release of radioactive material to the environment.

Your resolution referred to an issue identified during our triennial fire protection inspection conducted in late 2002. No safety-significant findings were identified during this inspection. One violation of requirements was identified; however, it was of minor safety significance. Therefore, no enforcement action was warranted in accordance with NRC's enforcement policy. AmerGen took prompt and appropriate compensatory actions for this deficiency and planned long-term corrective actions. The inspectors also identified an unresolved item involving manual actions required for shutdown of the plant in the event of a fire in certain areas. An issue is considered unresolved when it cannot be determined whether it is acceptable or in compliance with NRC regulations. In this case, there are generic open issues in the industry with regard to the use of manual actions for safe shutdown in the event of a fire. This issue was left unresolved pending resolution of these generic issues or re-analysis by AmerGen. The triennial fire protection inspection report (IR 50-219/2002-011) can be found on the NRC website. Additional information on the NRC enforcement policy and fire protection issues can also be found on the NRC website (<http://www.nrc.gov>).

Regarding the issue of alternative energy sources, the NRC does not have jurisdiction over this matter. The conversion to other sources of electrical energy would be an economic decision made by utility companies and would involve meeting requirements and expectations of governmental groups such as the Department of Energy, the Public Service Commissions, and the Environmental Protection Agency.

If you have any further questions regarding these issues, please call the NRC Project Manager for OCNCS, Mr. Peter Tam, at 301-415-1451.

Sincerely,

WRAI

Allen G. Howe, Acting Director
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

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