



# Utilities Service Alliance, Inc.

A Not-for-Profit, Membership Corporation  
Working Together For Mutual Success

9200 Indian Creek Pkwy.  
Suite 201  
Overland Park, KS 66210  
913-451-5641  
913-451-3893 (Fax)  
www.usainc.org

April 29, 2004

Office of the Secretary of the Commission  
Rulemaking and Adjudications Staff  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

References: 1. Federal Register Notice, 69 FR 9649, dated March 1, 2004  
2. Letter, Strategic Teaming and Resource Sharing (STARS) to NRC, same subject, dated March 31, 2004

Subject: **COMMENTS ON NUCLEAR MANAGEMENT COMPANY, LLC;  
NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT  
TO FACILITY OPERATING LICENSE AND OPPORTUNITY FOR A  
HEARING**

Dear Sir or Madam:

The purpose of this Utilities Service Alliance (USA)<sup>1</sup> correspondence is to endorse the comments provided by the Strategic Teaming and Resource Sharing (STARS) nuclear power plants on the need for this amendment request as noticed in Federal Register 69 FR 9649 (reference 1). This letter is not intended to request a hearing or to petition to intervene.

The STARS letter (reference 2) provides comments and a discussion of the regulatory guidance applicable to the implementation of changes associated with the control and handling of heavy loads at the Palisades Nuclear Plant. The USA plants concur with the STARS' position that the activities proposed at the Palisades Nuclear Plant could have been implemented in accordance with 10 CFR 50.59, "Changes, Tests, and Experiments," without seeking prior NRC approval. While seeking NRC approval is an option for licensees, Palisades' amendment request in this particular situation should not set a regulatory precedent and preclude implementing changes such as this under 10 CFR 50.59.

The USA plants appreciate this opportunity to comment. If you have questions or would like to discuss this further please contact Alan Carlyle of the USA 50.59 Committee at (509) 377-6104 or [agcarlyle@energy-northwest.com](mailto:agcarlyle@energy-northwest.com).

Respectfully,



Carl E. Parry  
President & CEO  
Utilities Service Alliance, Inc.

cc: M Schoppman NEI  
NRC Document Control Desk  
Alan Carlyle, Energy NW  
D Woodlan STARS

<sup>1</sup> USA is an alliance of eight plants (eleven nuclear units) operated by American Electric Power, Detroit Edison, Omaha Public Power District, Energy Northwest, Nebraska Public Power District, Wolf Creek Nuclear Operating Company, PPL Susquehanna, LLC and Southern California Edison.



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D. R. Woodlan, Chairman  
Integrated Regulatory Affairs Group  
P.O. Box 1002, Glen Rose, Texas 76043

Rules and Directives  
Branch  
0700

Ref: 69 FR 9649

STARS-04010

March 31, 2004

Office of the Secretary of the Commission  
Rulemaking and Adjudications Staff  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

- References:
1. Federal Register Notice 69 FR 9649
  2. NEI 96-07, Revision 1
  3. SECY 00-203

**STRATEGIC TEAMING AND RESOURCE SHARING (STARS)  
COMMENTS ON NUCLEAR MANAGEMENT COMPANY, LLC;  
NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT  
TO FACILITY OPERATING LICENSE AND OPPORTUNITY FOR  
A HEARING  
(69 FR 9649)**

Gentlemen:

This letter provides comments from the Strategic Teaming and Resource Sharing (STARS)<sup>1</sup> nuclear power plants in accordance with 10 CFR 50.91(a)(2)(ii) regarding the Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing for Palisades Nuclear Plant of Nuclear Management Company, LLC (NMC) (Docket No 50-255) as published in 69 FR 9649. The purpose of this STARS correspondence is not to request a hearing or to petition to intervene but to provide comments on the need for an amendment.

The STARS plants have reviewed the proposed notice and recognize the importance of complying with existing regulatory requirements associated with the control and handling of heavy loads at nuclear power plants. It is the responsibility of the licensee to ensure

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<sup>1</sup> STARS is an alliance of six plants (eleven nuclear units) operated by TXU Energy, AmerenUE, Wolf Creek Nuclear Operating Corporation, Pacific Gas and Electric Company, STP Nuclear Operating Company and Arizona Public Service Company.

that heavy load activities are carried out within their licensing basis and are performed safely and within regulatory requirements. However, the STARS plants believe the activities proposed at the Palisades Nuclear Plant for which the amendment request was made could have been made in accordance with 10 CFR 50.59, "Changes, Tests, and Experiments," and without seeking prior NRC approval. The efforts required to complete activities such as a change in methodology under 10 CFR 50.59 are not insignificant and STARS recognizes that a licensee may conservatively choose to submit a license amendment requesting Nuclear Regulatory Commission (NRC) approval for changing the evaluation methodology.

Attached, the STARS plants have offered broad concepts for NRC consideration rather than an assembled a list of detailed comments.

The STARS plants appreciate the opportunity to comment and although these comments may be too late to be considered in this amendment process, please consider these comments in the future. If there are any questions regarding these comments, please contact me at 254-897-6887 or [dwoodl1@txu.com](mailto:dwoodl1@txu.com).

Sincerely,

D. R. Woodlan, Chairman  
Integrated Regulatory Affairs Group  
STARS

c- John Stang (NRR)  
Eileen McKenna (NRR)

**Comments on Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing for Palisades Nuclear Plant of Nuclear Management Company, LLC**

General 10 CFR 50.59 Screening Discussion

NMC chose to submit a license amendment requesting NRC approval to reflect the fuel building crane (L-3 crane) main hoist upgrade to a new rated capacity and to reflect the new single-failure-proof design. It is our understanding that this change is perceived as being a change in methodology from that which was originally considered in the Palisades Final Safety Analysis Report (FSAR). However, processes are available under 10 CFR 50.59 for determining the acceptability of activities involving plant modifications and applying new or revised methodologies without first obtaining NRC approval. These processes may reduce burden on both the NRC and the licensee. NMC has chosen an acceptable conservative approach by submitting a license amendment request, but this approach does not take advantage of the tools that have been reviewed and approved by the NRC for use by the industry as they pertain to 10 CFR 50.59.

NEI 96-07, Revision 1, "Guidelines for 10 CFR 50.59 Implementation," as endorsed by Regulatory Guide 1.187, "Guidelines for the Implementation of 10 CFR 50.59, Changes, Tests, and Experiments," provides an acceptable method for implementation of 10 CFR 50.59. Activities are defined as changes to procedures and the facility. Changes to the facility include both physical modifications and the use of new or revised methods. The activities proposed at the Palisades Nuclear Plant and discussed here involved both a physical facility modification (increasing the rating of the crane) and a substitution of a methodology (single-failure-proof crane upgrade in accordance with NUREG-0554, "Single-Failure-Proof Cranes for Nuclear Power Plants").

In accordance with 10 CFR 50.59, "change" is defined as "a modification or addition to, or removal from, the facility or procedures that affects a design function, method of performing or controlling the function, or an evaluation that demonstrates that intended functions will be accomplished." NEI 96-07, Revision 1 provides guidance for screening changes to determine if the change is "adverse." If the change has been determined to not be "adverse," then the change may be implemented without further review or evaluation against the eight evaluation criteria provided in 10 CFR 50.59(c)(2). If the change is determined to be adverse during the screening process, then the change is evaluated by using the eight criteria of 10 CFR 50.59(c)(2) to determine if prior NRC approval is required to implement the change.

NMC proposed two different but related activities at the Palisades plant. The first was to increase the rating of the crane and the second was to take credit for the crane being single-failure-proof by applying the guidance of NUREG-0554, "Single-Failure-Proof Cranes for Nuclear Power Plants," and NUREG-0612, "Control of Heavy Loads at Nuclear Power Plants." By using sound engineering principles and by following appropriate codes, standards and guides, the increased rating of the crane would screen out as not adversely affecting: (1) a design function, (2) method of performing or controlling the function, or (3) an evaluation that demonstrates that intended functions will be accomplished. Therefore, prior NRC approval would not be required for implementing the up-rated crane, provided certain other conditions are met.

The activity that installs the single-failure-proof crane would require taking an allowance already available in NUREG-0612 and the embedded Safety Evaluation Report. Since NUREG-0612 provides for methods acceptable to the NRC, and provides alternative options such as implementing a single-failure-proof crane, adopting these other options would be acceptable and would not require prior NRC approval. Therefore, implementing these other options would not necessarily be considered an adverse change in methodology and would also screen out. STARS believes, based on its understanding of the activities being proposed at Palisades that both activities would have screened out as not adversely affecting the facility as described in the FSAR (as updated). As such, these proposed activities would not have been defined as a change and evaluated against the eight criteria of 10 CFR 50.59 (c)(2), and prior approval from the NRC would not be required.

As an additional note, Regulatory Guide 1.187, Section C.7, Applicability of Past NRC Communications states:

“The NRC has issued a number of communications, such as Generic Letters or Bulletins that discussed or referred to 10 CFR 50.59. In considering whether the information in those documents remains applicable, it should be noted that these documents were based upon the rule requirements that existed at the time of issuance. To the extent that the discussion therein relates to specific aspects of the rule, such as evaluation criteria, which have been revised, these past documents may no longer be fully consistent and the new rule requirements would prevail. The status is unchanged of other parts of these documents that are not affected by the revisions to the rule.”

Previous NRC communications discussing control and handling of heavy loads at nuclear power plants and the 10 CFR 50.59 process as it existed at that time, such as Bulletin 96-02, “Movement of Heavy Loads Over Spent Fuel, Over Fuel in the Reactor Core, or Over Safety-Related Equipment,” may not be consistent with current regulatory requirements. Therefore, previous communications should be considered in accordance with the current 10 CFR 50.59 regulations.

#### General 10 CFR 50.59 Evaluation Discussion

If a licensee decides to conservatively evaluate an activity under 10 CFR 50.59 (i.e., determination that the method was different than described in the FSAR, as updated, and declare it adverse) then the following concepts would apply. In the case of Palisades, it is clear that increasing the rating of the crane would screen out provided certain conditions were met. However, if the adoption of the alternative method described in NUREG-0612 were considered an adverse change, an evaluation would be performed. As stated in NEI 96-07, Revision 1, Section 4.2.1.3, methodology changes do not need to be evaluated against criteria i through vii of 10 CFR 50.59(c)(2).

10 CFR 50.59 (c)(2)(viii) (referred to as Criterion 8) requires a licensee to obtain a license amendment prior to implementing a proposed change only if the change would “result in a departure from a method of evaluation described in the FSAR (as updated) used in establishing the design bases or in the safety analyses.” Section 4.3.8.2 of NEI 96-07, Revision 1 provides guidance for changing from one method of evaluation to another. Specifically, the definition of

“departure...” provides a licensee with the flexibility to make changes in accordance with 10 CFR 50.59 from one method of evaluation to another method provided that the NRC has approved the new method for the intended application. A new method is approved by the NRC for an intended application if it is approved for the type of analysis being conducted, and applicable terms, conditions and limitations for its use are satisfied.

The NEI questions and answers regarding NEI 96-07, Revision 1, coordinated with and informally reviewed by the NRC, provide insight in this area. They state that if a new, NRC approved methodology is evaluated for use at a facility and it is found appropriate for the intended application under Criterion 8, the proposed methodology change may be implemented without prior NRC approval. The Criterion 8 review combines the NRC approval of the new methodology, including the specified fission product barrier design basis limit, and the licensee evaluation that ensures the new methodology is appropriate for the intended application. This integrated review provides the basis for implementing the change without prior NRC approval. This is consistent with the intent that the other 50.59(c)(2) criteria for “conservative or essentially the same” be inoperative when evaluating use of a new, NRC-approved methodology. Similarly, the 10 percent minimal increase limit in Section 4.3.3 of NEI 96-07, Revision 1 does not apply if a higher dose is calculated using a new, NRC approved methodology that was found appropriate for the intended application under Criterion 8.

In addition, a licensee can apply the methodology if it is consistent with the application approved for another facility and consider a method "approved by the NRC for the intended application" as provided in NEI 96-07, Revision 1 Section 4.3.8. If 1) a method of evaluation is used by another facility and is considered approved by the NRC and 2) one is able to demonstrate an understanding of the methodology, its existing application, and limitations on its use from other sources on which to base a further application of the methodology, then the licensee may apply the method and consider it approved by the NRC for the intended application. The basis for determining that the methodology is appropriate for the intended application should be documented in the 10 CFR 50.59 evaluation.

For this particular license amendment, the use of the methodology described in NUREG-0612 and NUREG-0554 must be approved by the NRC and be applied within the limitations specified by the NRC. To determine this, two conditions must be satisfied.

The first condition would address the methodology approval. NUREG -0612 evolved out of task A-36, which was established to systematically examine staff licensing criteria and the adequacy of measures in effect at operating plants, and to recommend necessary changes to assure the safe handling of heavy loads. The task involved review of licensee information, evaluation of historical data, performance of accident analyses and criticality calculations, development of guidelines for operating plants, and review of licensing criteria. NUREG-0612 provides the results of the NRC staff's review of the handling of heavy loads and includes the NRC staff's recommendations on actions that should be taken to assure safe handling of heavy loads. NUREG-0612 also acknowledges NUREG-0554 as being an acceptable approach for providing single-failure-proof cranes. In addition, the use of NUREG-0612 and NUREG-0554 as a methodology has been previously approved at other facilities (e.g., Oyster Creek [ML013410156] and ANO [ML032100731]) – this additional review and approval by the NRC

would also constitute a basis for revising the methodology at Palisades under the provisions of 10 CFR 50.59, and prior NRC approval would not be required.

The second condition requires that the method be applied within the limitations specified by the NRC. NMC upgraded the crane to be single-failure-proof per Ederer topical report EDR-1. The NRC has approved the generic topical report for Ederer (EDR-1) for making Ederer cranes such as the crane at NMC single-failure proof. Assuming that NMC followed the specific guidance of the topical report and complied with the limitations and constraints provided in the NRC Safety Evaluation Report for EDR-1, then the crane is established as single-failure-proof, and prior NRC approval is not required for implementing this change or use of the crane.

### Conclusion

The NRC and the industry have made a considerable investment in producing a process that would allow licensees to modify their facility (which includes methodology) or revise their procedures while maintaining the licensing bases and minimizing undo burden. This process is designed to identify the activity, screen the activity, and if necessary evaluate the activity. Evaluation of an activity may or may not result in the need for prior NRC approval. The tendency to jump directly to an evaluation or amendment without consideration of the 10 CFR 50.59 implementation process (screening for changes) that is described in NEI 96-07, Revision 1, should be avoided when designated regulatory avenues have been provided that could reduce both the industry and regulatory burden. It is important that both licensees and the regulator maintain consistency in implementation of regulations. The use of the license amendment process is clearly an allowed means of effecting a change such as this, but license amendments such as these should not be considered a precedent negating the use of 10 CFR 50.59.



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Att. = T.L. Harris  
(TLH3)