

May 14, 2004

Mr. R. T. Ridenoure
Division Manager - Nuclear Operations
Omaha Public Power District
Fort Calhoun Station FC-2-4 Adm.
Post Office Box 550
Fort Calhoun, NE 68023-0550

SUBJECT: FORT CALHOON STATION, UNIT NO. 1 - ISSUANCE OF AMENDMENT
(TAC NO. MC3083)

Dear Mr. Ridenoure:

The Commission has issued the enclosed Amendment No. 227 to Renewed Facility Operating License No. DPR-40 for the Fort Calhoun Station, Unit No. 1. Pursuant to 10 CFR 50.91(a)(6), the licensee in its application dated May 7, 2004, requested the proposed amendment on an exigent basis.

The amendment restores the licensed thermal power from 1524 megawatts thermal (MWt), as approved in Amendment No. 224, to the previous value of 1500 MWt. The staff processed this amendment on an exigent basis.

A copy of the related Safety Evaluation is also enclosed. The Notice of Issuance will be included in the Commission's next biweekly *Federal Register* notice.

Sincerely,

/RA/

Alan B. Wang, Project Manager, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-285

Enclosures: 1. Amendment No. 227 to DPR-40
2. Safety Evaluation

cc w/encls: See next page

Ft. Calhoun Station, Unit 1

cc:

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DATE	5/11/04	5/11/04	12 May 2004	5/13/04

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OMAHA PUBLIC POWER DISTRICT

DOCKET NO. 50-285

FORT CALHOUN STATION, UNIT NO. 1

AMENDMENT TO RENEWED FACILITY OPERATING LICENSE

Amendment No. 227
License No. DPR-40

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by the Omaha Public Power District (the licensee) dated May 7, 2004, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this license amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

2. Accordingly, Renewed Facility Operating License No. DPR-40 is amended by changes to the Operating License and the Technical Specifications as indicated in the attachment to this license amendment, and paragraph 3.B of Renewed Facility Operating License No. DPR-40 is hereby amended to read as follows:

B. Technical Specifications

The Technical Specifications contained in Appendix A, as revised through Amendment No. 227, are hereby incorporated in the license. The licensee shall operate the facility in accordance with the Technical Specifications.

3. The license amendment is effective as of its date of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Stephen Dembek, Chief, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Attachment: Changes to the Operating License and
Technical Specifications

Date of Issuance: May 14, 2004

ATTACHMENT TO LICENSE AMENDMENT NO. 227
RENEWED FACILITY OPERATING LICENSE NO. DPR-40
DOCKET NO. 50-285

Replace the following page of Renewed Facility Operating License No. DPR-40 with the attached revised page. The revised page is identified by amendment number and contains marginal lines indicating the areas of change.

REMOVE

3

INSERT

3

Replace the following pages of the Appendix A Technical Specifications with the attached revised pages. The revised pages are identified by amendment number and contain vertical lines indicating the areas of change.

REMOVE

Definitions - Page 1
2.1 - Page 20
3.5 - Page 3

INSERT

Definitions - Page 1
2.1 - Page 20
3.5 - Page 3

- (4) Pursuant to the Act and 10 CFR Parts 30, 40 and 70, to receive, possess and use in amounts as required any byproduct, source or special nuclear material without restriction to chemical or physical form for sample analysis or instrument calibration or when associated with radioactive apparatus or components;
 - (5) Pursuant to the Act and 10 CFR Parts 30 and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by operation of the facility.
- 3. This renewed license shall be deemed to contain and is subject to the conditions specified in the following Commission regulations in 10 CFR Chapter I: Part 20, Section 30.34 of Part 30, Section 40.41 of Part 40, Sections 50.54 and 50.59 of Part 50, and Section 70.32 of Part 70; and is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:
 - A. Maximum Power Level

Omaha Public Power District is authorized to operate the Fort Calhoun Station, Unit 1, at steady state reactor core power levels not in excess of 1500 megawatts thermal (rated power).
 - B. Technical Specifications

The Technical Specifications contained in Appendix A, as revised through Amendment No. 227, are hereby incorporated in the license. Omaha Public Power District shall operate the facility in accordance with the Technical Specifications.
 - C. Security and Safeguards Contingency Plans

The Omaha Public Power District shall fully implement and maintain in effect all provisions of the Commission-approved physical security, guard training and qualification, and safeguards contingency plans including amendments made pursuant to provisions of the Miscellaneous Amendments and Search Requirements revisions to 10 CFR 73.55 (51 FR 27817 and 27822) and to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The plans, which contain Safeguards Information protected under 10 CFR 73.21, are entitled: "Fort Calhoun Station Physical Security Plan," with revisions submitted through September 30, 1988; "Fort Calhoun Station Guard Training and Qualification Plan," with revisions submitted through August 17, 1979; and "Fort Calhoun Station Safeguards Contingency Plan," with revisions submitted through March 20, 1979. If certain security modifications are delayed beyond expectations of the schedule, approved compensatory measures must be implemented during the transition period.

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO AMENDMENT NO. 227

TO RENEWED FACILITY OPERATING LICENSE NO. DPR-40

OMAHA PUBLIC POWER DISTRICT

FORT CALHOUN STATION, UNIT NO. 1

DOCKET NO. 50-285

1.0 INTRODUCTION

By application dated May 7, 2004, Omaha Public Power District (OPPD) requested an amendment to the operating license (OL) and technical specifications (TSs) for the Fort Calhoun Station, Unit No. 1 (FCS). Pursuant to 10 CFR 50.91(a)(6), the licensee requested the proposed amendment on an exigent basis. The proposed amendment will restore the licensed thermal power from 1524 megawatts thermal (MWt) as approved in Amendment 224 to the previous value of 1500 MWt.

2.0 REGULATORY EVALUATION

In issuing an amendment to an operating license, the NRC staff states when the amendment is effective and, if necessary, when the amendment must be implemented. These dates are given in Enclosure 1 of the amendment and are part of the operating license. As such, a change to the implementation date is a change to the operating license for the plant. Although there are no regulatory requirements on the implementation date specified in an amendment, the licensee is required by the operating license to fully implement the amendment by the date specified (i.e., by a date no later than that specified) or be in violation of its operating license.

OPPD has determined that Amendment No. 224, as revised by Amendment No. 225, cannot be implemented. The implementation date had been extended by 90 days by Amendment No. 225. The restoration of the pre-Amendment No. 224 licensed operating conditions (rated power level of 1500 MWt) under these circumstances can only be made through the license amendment request process (10 CFR 50.90). This change has no technical or safety aspects. In order to avoid a violation of Item 3 in Amendment No. 225, the approval needs to be issued prior to the end of the implementation period (May 15, 2004).

3.0 TECHNICAL EVALUATION

The staff has reviewed the licensee's regulatory and technical analyses in support of its proposed license amendment which are described in Sections 4.0, 5.0 and 6.0 of the licensee's May 7, 2004, application. The background to the requested amendment is as follows: Amendment No. 224 to Renewed Facility Operating License No. DPR-40 was approved and issued by the NRC on January 16, 2004. Amendment No. 224 was issued in response to OPPD's application dated July 18, 2003, as revised by letter dated August 28, 2003, and supplemented by letters dated October 31 and December 15, 2003. Amendment No. 224 approved a measurement uncertainty recapture (MUR) power uprate by revising the renewed operating license and the TS to increase the licensed rated power by 1.6 percent from 1500 MWt to 1524 MWt. The MUR power uprate at FCS was based on decreased instrument uncertainty provided in part by installation of a CROSSFLOW ultrasonic flow measurement system. A 30-day implementation period was approved in Amendment No. 224.

The regulatory commitments contained in the MUR application stated the following: "Modifications associated with the MUR power uprate will be completed prior to implementation." OPPD's implementation plan for completing the MUR power uprate project called for completion within 30 days of issuance of Amendment No. 224. The CROSSFLOW system installation and testing has proceeded under the FCS plant modification process. However, OPPD did not anticipate that any CROSSFLOW discrepancies could not be resolved within the 30-day implementation period. Problems have been encountered during the testing period, including a small discrepancy in the main feedwater flow readings from the CROSSFLOW system. OPPD had decided that the aforementioned problem needed to be resolved prior to declaring the CROSSFLOW modification complete and operable, and prior to raising reactor power from 1500 MWt to 1524 MWt. As such on February 6, 2004, OPPD requested an exigent amendment to extend the implementation period by 90 days to May 15, 2004. On February 13, 2004, the staff issued Amendment No. 225 extending the implementation period 90 days to May 15, 2004.

However, despite diligent efforts by OPPD and the vendor, problems with installation and testing of the CROSSFLOW system have not been resolved and are unlikely to be resolved in the foreseeable future. Therefore, as OPPD is unable to meet the regulatory commitment that the modifications associated with the MUR power uprate will be completed prior to implementation, OPPD will not be able to complete the CROSSFLOW modification as originally approved. OPPD has stated that a revised MUR TS package will be submitted when these issues are resolved. As a result, OPPD proposes to restore the plant to the licensed rated power level that existed prior to Amendment No. 224 of 1500 MWt. As Amendment No. 224 has not been implemented, the plant has continued to operate during this period using the pre-existing feedwater flow measurement instrumentation. This system has remained unchanged and operable. FCS procedures and design basis documents continue to reflect the pre-Amendment No. 224 licensed rated power level of 1500 MWt. The proposed amendment does not affect any technical or safety aspects of plant operation. All accident analyses performed under the previous licensed rated power level of 1500 MWt remain valid. The proposed change restores the previously NRC-approved licensed rated power level of 1500 MWt. Based on the above, the NRC staff concludes that the proposed amendment is acceptable.

4.0 EXIGENT CIRCUMSTANCES

The Commission's regulations, 10 CFR 50.91, contain provisions for issuance of amendments when the usual 30-day public notice period cannot be met. One type of special exception is an exigency. An exigency is a case where the staff and licensee need to act promptly, and time does not permit the Commission to publish a *Federal Register* notice allowing 30 days for public comment. In this case, the licensee cannot implement an amendment and has requested to restore the plant to the condition prior to Amendment No. 224. Pursuant to 10 CFR 50.91(a)(6), the licensee requested the proposed amendment on an exigent basis.

Under such circumstances, the Commission notifies the public in one of two ways: by issuing a *Federal Register* notice providing an opportunity for hearing and allowing at least two weeks for prior public comments, or by issuing a press release discussing the proposed changes, using local media. In this case, the Commission used the second approach. There were no public comments in response to the notice published in the Omaha-World Herald on May 12, 2004.

The licensee provided the basis for its exigent request in its application of May 7, 2004. In the application, OPPD states that it has worked diligently with the vendor to resolve problems encountered during installation and testing of the Westinghouse CROSSFLOW system. The application states that OPPD and the vendor fully expected to be able to resolve the technical issues within the 120 day implementation period. However, as of May 5, 2004, OPPD determined that this could not be accomplished. As set forth in the application, OPPD does not anticipate the technical issues can be resolved by the May 15, 2004, implementation date. The licensee is required by the operating license to fully implement the amendment by the date specified (i.e., by a date no later than that specified) or be in violation of its operating license. Therefore, OPPD has submitted an exigent license amendment to restore the plant to the previously licensed rated power level of 1500 MWt by May 15, 2004, in order to avoid a violation of its operating license.

Based on the foregoing, the staff concludes that exigent circumstances, as defined in 10 CFR 50.91, exist in that there is a need to amend the implementation condition and the licensee did not have time sufficient to propose the amendment and allow for the normal 30-day public comment period. The staff also concludes that the licensee has used its best efforts to make a timely application for amendment and has not acted to create the exigency to take advantage of the provisions of 10 CFR 50.91(a)(6). Based on this, the staff is issuing the amendment under exigent circumstances.

5.0 FINAL NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION

The Commission's regulations in 10 CFR 50.92 state that the Commission may make a final determination that a license amendment involves no significant hazards considerations if operation of the facility in accordance with the 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 margin of safety.

Operation of the facility in accordance with the proposed amendment will not involve a

significant increase in the probability or consequences of an accident evaluated. The proposed exigent amendment restores the previously approved licensed rated power level of 1500 MWt that existed prior to Amendment No. 224. Amendment No. 224 was never implemented. All accident analyses performed under the previous licensed rated power level of 1500 MWt remain valid. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Operation of the facility in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed exigent amendment restores the previously approved licensed rated power level of 1500 MWt that existed prior to Amendment No. 224. Amendment No. 224 was never implemented. All accident analyses performed under the previous licensed rated power level of 1500 MWt remain valid. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Operation of the facility in accordance with the amendment will not involve a significant reduction in the margin of safety. The proposed exigent amendment restores the previously approved licensed rated power level of 1500 MWt that existed prior to Amendment No. 224. Amendment 224 was never implemented. All accident analyses performed under the previous licensed rated power level of 1500 MWt remain valid. The proposed amendment has no technical or safety aspects. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based upon the above considerations, the staff concludes that the amendment meets the three criteria of 10 CFR 50.92. Therefore, the staff has made a final determination that the proposed amendment does not involve a significant hazards consideration.

6.0 STATE CONSULTATION

In accordance with the Commission's regulations, the Nebraska State official was notified of the proposed issuance of the amendment. The State official had no comments.

7.0 ENVIRONMENTAL CONSIDERATION

The amendment changes a requirement with respect to the installation or use of a facility component located within the restricted area as defined in 10 CFR Part 20. The NRC staff has determined that the amendment involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has made a final finding that the amendment involves no significant hazards consideration. Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendment.

8.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributor: A. Wang

Date: May 14, 2004