7590-01-P

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

SOUTHERN NUCLEAR OPERATING COMPANY, INC.

EDWIN I. HATCH NUCLEAR PLANT, UNITS 1 AND 2

JOSEPH M. FARLEY NUCLEAR PLANT, UNITS 1 AND 2

VOGTLE ELECTRIC GENERATING PLANT, UNITS 1 AND 2

DOCKET NO(S) 50-321, 50-366, 50-348, 50-364, 50-424, AND 50-425

EXEMPTION

1.0 BACKGROUND

The Southern Nuclear Operating Company, Inc. (SNC or the licensee), is the holder of Facility Operating Licenses No. DPR-57, NPF-5, NPF-2, NPF-8, NPF-68, and NPF-81, which authorize operation of Edwin I. Hatch Nuclear Plant, Units 1 and 2 (Hatch), Joseph M. Farley Nuclear Plant, Units 1 and 2 (Farley), and Vogtle Electric Generating Plant, Units 1 and 2 (Vogtle), respectively. The licenses provide, among other things, that these facilities are subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facilities consist of boiling water reactors located in Appling County in Georgia (Hatch), and pressurized water reactors in Houston County, Alabama (Farley), and Burke County, Georgia (Vogtle).

2.0 REQUEST/ACTION

Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, requires in Appendix E, Section E, that adequate provisions shall be made and described for emergency facilities and

equipment, including a licensee onsite technical support center and a licensee near-site emergency operations facility (EOF) from which effective direction can be given and effective control can be exercised during an emergency. Additionally, 10 CFR 50.47(b)(3) states in part, " . . . arrangements to accommodate State and local staff at the licensee's near-site EOF have been made . . . " The Commission issued NUREG-0696 "Functional Criteria for Emergency Response Facilities," and Supplement 1 to NUREG-0737, "Clarification of TMI Action Plan Requirements," to provide guidance regarding acceptable methods for meeting its EOF emergency preparedness requirements. In addition, NUREG-0654/FEMA-REP-1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," Evaluation Criterion H.2, states: "Each licensee shall establish an Emergency Operations Facility from which evaluation and coordination of all licensee activities related to an emergency is carried out and from which the licensee shall provide information to Federal, State and local authorities responding to radiological emergencies in accordance with NUREG-0696, Revision 1."

Both NUREG-0696, Table 2 and Supplement 1 to NUREG-0737, Table 1 specify that the EOF should be located between 10 and 20 miles from the site, but a primary EOF may be located closer than 10 miles if a backup EOF is located within 10 to 20 miles of the Technical Support Center. For cases where the licensee proposed an exception involving a greater deviation, and for all Corporate EOF (CEOF) proposals, the NRC staff is required to obtain Commission approval. In SNC's proposal dated October 16, 2003, and as supplemented on April 15 and August 16, 2004, the licensee requested approval to consolidate the near-site EOFs and back-up EOFs for Hatch, Farley, and Vogtle into a single EOF located at SNC's corporate location in Birmingham, Alabama.

Prior requests by other licensees to relocate EOFs to a location greater than 20 miles from associated reactor sites did not result in the NRC staff requiring an exemption to 10 CFR

Part 50 Appendix E, and 10 CFR 50.47. However, the licensee's proposal to locate the EOFs in Birmingham, AL, is 1 ½ to 2 ½ times farther than any previous NRC-approved distance. At this distance, the SNC common EOF can not reasonably be considered to be "near-site." Therefore, the NRC staff determined that an exemption to the regulations that require an EOF to be near-site is required prior to implementation of the SNC CEOF. In order to ensure that NRC actions are timely, effective, and efficient, the staff is initiating this exemption request under 10 CFR 50.12.

3.0 DISCUSSION

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Under 10 CFR 50.12(a)(2)(ii), special circumstances are present when application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of the 10 CFR Part 50, Appendix E and 10 CFR 50.47(b)(3) is to provide reasonable assurance that adequate protective measures can and will be implemented in the event of a radiological emergency. Specifically, adequate protective measures are those that provide effective direction, control, determine protective actions for the public, and coordinate the emergency response effort with federal, State, and local agencies.

The staff relied upon the licensee's submittals to evaluate whether the licensee's proposal to consolidate the EOF's for Hatch, Vogtle, and Farley meets the underlying purpose of 10 CFR Part 50, Appendix E and 10 CFR 50.47(b)(3). Advancements in communications, monitoring capabilities, computer technology, the familiarity of the NRC staff with the use of

common EOFs, and the SNC's emergency response strategies will continue to provide reasonable assurance that adequate protective measures can and will be implemented in the event of a radiological emergency.

The common EOF in Birmingham, AL, meets the functional and availability characteristics for carrying out the functions of a "near-site" EOF. The remote location of the common EOF could aid in response to a security event as the licensee can effectively mobilize and manage its resources and communicate effectively with the site, Federal, State, and local emergency management.

The NRC staff observed a dual-site drill on July 14, 2004 involving FNP and HNP. The staff observed the licensee's notification process, staffing, communication, technical support, dose assessment, protective action recommendation process, coordination with offsite officials, and overall command and control. The licensee demonstrated the capability to respond to a dual-site emergency event. EOF staffing was in accordance with the SNC's procedures. The offsite agencies received timely and accurate information, and adequate protective measures were recommended to protect the public health and safety.

In summary, the license's proposal to consolidate the near-site EOF's for Hatch, Farley, and Vogtle to SNC's corporate location in Birmingham, Alabama meets the underlying purpose of the rule, See 10 CFR 50.12(a)(2)(ii). As evinced in SNC's submittals the new EOF location can perform all of the functions of a "near-site" location as contemplated by the regulations. Relocation of the EOFs to the proposed site will continue to provide reasonable assurance that adequate protective measures can and will be implemented in the event of a radiological emergency. Therefore, SNC has demonstrated that special circumstances exist such that an exemption is warranted.

4.0 CONCLUSION

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, as specified herein, the Commission hereby grants Southern Nuclear Operating Company, Inc., an exemption from the requirements of 10 CFR 50, Appendix E, Section E.8. and 10 CFR 50.47(b)(3).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment **(XX FR XXXXX**).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this day of .

FOR THE NUCLEAR REGULATORY COMMISSION

Ledyard B. Marsh, Director
Division of Licensing Project Management
Office of Nuclear Reactor Regulation