

June 7, 2005

Mr. C. J. Gannon
Vice President
Brunswick Steam Electric Plant
Carolina Power & Light Company
Post Office Box 10429
Southport, North Carolina 28461

SUBJECT: BRUNSWICK STEAM ELECTRIC PLANT, UNITS 1 AND 2 — NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO FACILITY OPERATING LICENSES, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING (TAC NOS. MC7216 AND MC7217)

Dear Mr. Gannon:

Enclosed is a copy of the subject notice for your information. This notice relates to your amendment application for Brunswick Steam Electric Plant, Units 1 and 2, dated May 17, 2005, which would revise the Technical Specifications (TS) to replace the existing requirement of TS 3.4.5, "RCS Leakage Detection Instrumentation," Required Action D. 1, to enter Limiting Condition for Operation (LCO) 3.0.3 if required leakage detection systems are inoperable with the requirement to be in Mode 3 within 12 hours and Mode 4 within 36 hours.

This notice has been sent to the Office of the Federal Register for publication.

Sincerely,

/RA/

Brenda L. Mozafari, Senior Project Manager, Section 2
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-325
and 50-324

Enclosure: Notice

cc w/encl: See next page

UNITED STATES NUCLEAR REGULATORY COMMISSION

CAROLINA POWER & LIGHT COMPANY

BRUNSWICK STEAM ELECTRIC PLANT, UNITS 1 AND 2

DOCKET NOS. 50-325 AND 50-324

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO
FACILITY OPERATING LICENSES, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License No. DPR-71 and Facility Operating License No. DPR-62 issued to Carolina Power & Light Company (the licensee), for operation of the Brunswick Steam Electric Plant, Units 1 and 2, located in Brunswick County, North Carolina.

The proposed changes replace the existing requirement of Technical Specification (TS) 3.4.5, "RCS [Reactor Coolant System] Leakage Detection Instrumentation," Required Action D.1, to enter Limiting Condition for Operation (LCO) 3.0.3 if required leakage detection systems are inoperable with the requirement to be in Mode 3 within 12 hours and Mode 4 within 36 hours.

The reason for the exigency is to fulfill the NRC's requirement for the request for exigent processing of the proposed amendments as indicated in NRC Inspection Manual Part 9900, "Operations - Notices of Enforcement Discretion [NOEDs]," following NRC's granting of a verbal NOED on May 12, 2005 (documented in a letter to the NRC on May 13, 2005).

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments 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 a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed change replaces the existing requirement of TS 3.4.5, Required Action D.1 to enter LCO 3.0.3 if required leakage detection systems are inoperable with the requirement to be in Mode 3 within 12 hours and Mode 4 within 36 hours. This is accomplished by deleting Condition D and including the "all required leakage detection systems inoperable" statement in Condition C.

The proposed change does not involve physical changes to any plant structure, system, or component. As a result, no new failure modes of the RCS leakage detection systems are being introduced. Additionally, the RCS leakage detection systems have no impact on any initiating event frequency. Therefore, the proposed change cannot increase ... the probability [of an accident] previously evaluated.

The consequences of a previously analyzed accident are dependent on the initial conditions assumed for the analysis, the behavior of the fuel during the analyzed accident, the availability and successful functioning of the equipment assumed to operate in response to the analyzed event, and the setpoints at which these actions are initiated. The RCS leakage detection systems do not perform an accident mitigating function. ECCS [emergency core cooling system], RPS [reactor protection system], and primary and secondary containment isolation actuations all occur based on high drywell pressure and/or low vessel water level. The proposed change has no impact on any setpoints or functions related to these actuations. Therefore, the proposed change cannot increase ... the consequences [of an accident] previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed change eliminates the unnecessarily restrictive shutdown requirements of entering LCO 3.0.3 when all TS required leakage detection systems are inoperable. No installed equipment is being operated in a different manner. There is no alteration to the parameters within which the plant is normally operated or in the setpoints that initiate protective or mitigative actions. As a result no new failure modes are being introduced. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed change maintains the existing level of safety by imposing shutdown requirements that are as conservative as those currently imposed by TS 3.4.4 for actual RCS operational leakage in excess of TS requirements. The net effect of this change is to allow a unit to operate for five additional hours in Mode 1 with no operable TS required leakage detection systems, while exiting the Mode of Applicability for RCS leakage detection instrumentation one hour earlier (i.e., 36 hours to be in Mode 4 versus 37 hours per the existing TS 3.4.5, Required Action D.1). Elimination of the intermediate 7 hours to Mode 2 requirement, imposed by LCO 3.0.3, allows the unit to reach the Mode 3 from full power conditions in an orderly manner and without challenging plant safety systems. Therefore, the proposed change does not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant

hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the *Federal Register* a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this *Federal Register* notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is

filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: 1) the name, address and telephone number of the requestor or petitioner; 2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; 3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and 4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner/requestor is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petitioner/requestor must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy

these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)-(viii).

A request for a hearing or a petition for leave to intervene must be filed by: 1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; 2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; 3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, HEARINGDOCKET@NRC.GOV; or 4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington,

DC, Attention: Rulemakings and Adjudications Staff at (301) 415-1101, verification number is (301) 415-1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by email to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to David T. Conley, Associate General Counsel II - Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated May 17, 2005, which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 7th day of June 2005.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Brenda L. Mozafari, Senior Project Manager, Section 2
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Mr. C. J. Gannon
Carolina Power & Light Company

Brunswick Steam Electric Plant
Units 1 and 2

cc:

David T. Conley
Associate General Counsel II -
Legal Department
Progress Energy Service Company, LLC
Post Office Box 1551
Raleigh, North Carolina 27602-1551

Mr. Robert P. Gruber
Executive Director
Public Staff - NCUC
4326 Mail Service Center
Raleigh, North Carolina 27699-4326

Mr. David R. Sandifer, Chairperson
Brunswick County Board of Commissioners
Post Office Box 249
Bolivia, North Carolina 28422

Mr. T. P. Cleary
Director - Site Operations
Brunswick Steam Electric Plant
Carolina Power & Light Company
Post Office Box 10429
Southport, North Carolina 28461-0429

Resident Inspector
U. S. Nuclear Regulatory Commission
8470 River Road
Southport, North Carolina 28461

Mr. Norman R. Holden, Mayor
City of Southport
201 East Moore Street
Southport, North Carolina 28461

Mr. John H. O'Neill, Jr.
Shaw, Pittman, Potts & Trowbridge
2300 N Street NW.
Washington, DC 20037-1128

Mr. Warren Lee
Emergency Management Director
New Hanover County Department of
Emergency Management
Post Office Box 1525
Wilmington, North Carolina 28402-1525

Ms. Beverly Hall, Section Chief
Division of Radiation Protection
N.C. Department of Environment
and Natural Resources
3825 Barrett Dr.
Raleigh, North Carolina 27609-7721

Mr. Chris L. Burton, Manager
Performance Evaluation and
Regulatory Affairs PEB 7
Progress Energy
Post Office Box 1551
Raleigh, North Carolina 27602-1551

Mr. David H. Hinds
Plant General Manager
Brunswick Steam Electric Plant
Carolina Power & Light Company
Post Office Box 10429
Southport, North Carolina 28461-0429

Mr. Edward T. O'Neil
Manager - Support Services
Brunswick Steam Electric Plant
Carolina Power & Light Company
Post Office Box 10429
Southport, North Carolina 28461

Public Service Commission
State of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Mr. C. J. Gannon, Vice President
Brunswick Steam Electric Plant
Carolina Power & Light Company
Post Office Box 10429
Southport, North Carolina 28461

Ms. Margaret A. Force
Assistant Attorney General
State of North Carolina
Post Office Box 629
Raleigh, North Carolina 27602