

May 9, 2006

Ms. Alice E. Moore
Chief, Public Protection Bureau
Office of the Attorney General
Commonwealth of Massachusetts
One Ashburton Place
Boston, MA 02108-1598

Dear Ms. Moore:

On behalf of the Nuclear Regulatory Commission (NRC), I am writing in response to your letter to Chairman Nils J. Diaz of April 12, 2006, in which you expressed concerns about the implementation of the extended power uprate (EPU) at the Vermont Yankee Nuclear Power Station (Vermont Yankee). Specifically, you requested that the NRC defer the effectiveness of the license amendment until the conclusion of the associated adjudicatory hearing.

Your letter referenced the views expressed by Commissioner Jaczko in a memorandum to his fellow Commissioners concerning the Vermont Yankee EPU. That memorandum reflects the views of Commissioner Jaczko and does not represent the views of the entire Commission. On March 3, 2006, the Commission declined to stay the issuance of the requested EPU amendment, pending completion of the adjudicatory proceeding on this application.

Under 10 CFR 2.1202, consistent with the NRC staff's findings in its review of the application and, as authorized by law, the NRC staff is expected to issue its approval or denial of an application promptly or take other appropriate action on the matter, notwithstanding the pendency of any requested hearing. Further, Section 189 of the Atomic Energy Act, provides that the action taken by the staff with regard to reactor license amendments is effective on issuance, notwithstanding the pendency of any hearing requests, except, among other things, when the license amendment involves a significant hazards consideration. The staff concluded that a significant hazards consideration did not exist for the Vermont Yankee power uprate, as discussed in Section 8.0 of the staff's safety evaluation dated March 2, 2006. A copy of this 335 page report is available on the NRC's Web site at: <http://adamswebsearch.nrc.gov/dologin.htm> by searching for accession number ML060050028.

Your letter also expressed concerns regarding the NRC's decision to make the EPU amendment immediately effective, in light of plant vibrations detected as the power level was increased during EPU implementation. The NRC's approval of the Vermont Yankee EPU included a license condition that provides for monitoring, evaluating, and taking prompt action in response to potential adverse flow effects as a result of power uprate operation, on structures, systems, and components (including verifying the continued structural integrity of the steam dryer). The license condition is being implemented through the procedural steps, performance criteria, and required actions specified in the Vermont Yankee steam dryer monitoring plan and power ascension test procedure.

On March 4, 2006, Entergy began slowly increasing reactor power at Vermont Yankee, following the NRC's approval of the EPU amendment on March 2, 2006. Since that time, the plant has suspended the power ascension three times (at 105%, 112.5%, and 117.5% of original licensed thermal power) when administrative limits specified in the steam dryer monitoring plan were reached. The administrative limits associated with plant vibration were set conservatively to maintain stress on the steam dryer below that allowed by the American Society of Mechanical Engineers Boiler and Pressure Vessel Code. When an administrative limit is reached, the monitoring plan requires that an engineering evaluation be performed prior to further increases in power. As documented in the NRC staff's safety evaluation for the EPU, Entergy formally committed to not increase power above the applicable hold point if any safety concerns were identified during the NRC staff's review of the power ascension data. The power ascension process has been a slow, deliberate process, consistent with the intent of a license condition that was included in the power uprate amendment. At this time, the plant has completed its power ascension process and is proceeding to implement the EPU in full.

With respect to the contentions proffered by the State of Vermont Department of Public Service, the concerns raised by the state received extensive consideration by the NRC staff and the Advisory Committee on Reactor Safeguards. On May 2, 2006, the state filed a motion before the Atomic Safety and Licensing Board, in which it expressed its satisfaction with the consideration given to its contentions and the additional commitments made by the licensee, and it requested leave to withdraw from the proceeding and that its contentions be dismissed with prejudice.

The NRC's primary mission is to ensure adequate protection of public health and safety. The NRC will not approve any proposed change to any plant license unless our technical staff can conclude that it has reasonable assurance that operations under the license amendment will not be inimical to public health and safety. We have taken great care in conducting the technical reviews and inspections regarding the Vermont Yankee power increase in order to ensure that these reviews and inspections will identify and address any potential safety concerns for operating the plant at uprated power conditions. We will continue to closely monitor the facility and will take any actions deemed appropriate for continued protection of public health and safety. I trust that this letter addresses your concerns.

Sincerely,

/RA/

Luis A. Reyes
Executive Director
for Operations

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Executive Director
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