



10 CFR 50.4
10 CFR 2.390

July 13, 2007

ATTN: Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

UN#07-008

Subject: UniStar Nuclear, NRC Project No. 746
Submittal of a Partial Combined License Application
for the Calvert Cliffs Nuclear Power Plant, Unit 3,
Application for Withholding of Documents, and Request for Exemption

- References:
- 1) Letter UN#07-005, from R. M. Krich to U.S. Nuclear Regulatory Commission, "UniStar Nuclear, Project Nos. 733 (AREVA NP), 746 (UniStar Nuclear), 750 (AmerenUE), and 752 (Amarillo Power), Response to Regulatory Issue Summary 2007-08, Updated Licensing Submittal Information to Support the Design-Centered Licensing Review Approach," dated May 31, 2007
 - 2) Letter UN#07-007, from R. M. Krich to U.S. Nuclear Regulatory Commission, "UniStar Nuclear, NRC Project No. 746, Early Submittal of the Environmental Report," dated June 22, 2007

In accordance with 10 CFR 52.75, "Filing of applications," and as allowed by 10 CFR 2.101, "Filing of application," paragraph (a)(5), UniStar Nuclear is submitting the first of two parts of its reference Combined License (i.e., COL) application for a U.S. EPR nuclear power plant to be located at the current site of the Calvert Cliffs Nuclear Power Plant (CCNPP), Units 1 and 2 (NRC License Nos. DPR-53 and DPR-69). This plant is to be designated Unit 3. The part of the COL being submitted by this letter is the Environmental Report (ER) and the other parts of the COL application required by 10 CFR 2.101(a)(5) and is provided in Enclosure 2. UniStar Nuclear committed to the NRC to submit the ER at this time in our letters dated May 31, 2007 (Reference 1) and June 22, 2007 (Reference 2). As described in the enclosed application, the licensees will be UniStar Nuclear Operating Services, LLC and Constellation Generation Group, LLC.

The partial COL application provided in the enclosure conforms to the revised rules that have been approved by the Commissioners and that are scheduled to become effective in the near future. Specifically, the partial COL application conforms to the revised rules that were approved by the Commissioners in affirmation sessions that were documented in Staff Requirements Memorandum (SRM) M070411 from the Secretary to the

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Executive Director for Operations (EDO), specifically Item "I," "SECY-06-0220 – Final Rule to Update 10 CFR Part 52, Licenses, Certifications, and Approvals for Nuclear Power Plants (RIN AG24)," dated April 11, 2007, and SRM M070417B from the Secretary to the EDO, Item "II," "SECY-07-0030 – Final Rulemaking on Limited Work Authorizations," dated April 17, 2007.

In view of the imminent effectiveness of the revised rules, we consider that it would be more efficient for both UniStar Nuclear and the NRC for the application submitted at this time to conform to the revised rules rather than the currently effective rules. Accordingly, UniStar Nuclear is also submitting under 10 CFR 50.12, "Specific Exemption," a request for an exemption from certain provisions of 10 CFR 2.101(a)(5) in accordance with 10 CFR 52.93, "Exemptions and variances."

This approach, which is authorized by law, would allow the NRC to conduct its acceptance review of our partial COL application based on the revised rules that will become effective in the near future. Since no other approvals will be given until the revised rules become effective, it will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

We consider that this temporary situation has created special circumstances in that application of the current regulations in 10 CFR 2.101(a)(5) would not serve, nor is it necessary to achieve, the underlying purpose of the rule, since the underlying purpose of the rule is satisfied by meeting either the currently effective rule or the revised rule that will become effective in the near future. The enclosed license application meets the revised rule. Clearly, compliance with the current rule would cause undue hardship to UniStar Nuclear, as well as the NRC staff, in that it would cause us to have to prepare, and the NRC to start review of, a second partial COL application which, in a matter of four or five months, would no longer comply with the revised 10 CFR 2.101(a)(5) that would be in place by that time.

For the reasons discussed above, the NRC should conduct the acceptance review of the enclosed partial COL application as soon as practicable. Although the exemption request is likely to be moot in just a few months, should the NRC process the requested exemption, an environmental assessment is required by 10 CFR 51.21, "Criteria for and identification of licensing and regulatory actions requiring environmental assessments." To support the NRC's effort to prepare an environmental assessment for the requested exemption, the following information is provided.

- i) The exemption is needed in order for the NRC staff to be able to begin its acceptance review of a partial COL application as early as possible.
- ii) The alternative to granting the exemption would be to deny it, thereby requiring UniStar Nuclear to wait four or five months before submitting an application that is ready to be submitted and reviewed now. Should the requested exemption be granted, the enclosed partial COL application satisfies the revised rules.

The new 10 CFR 2.101(a)(5) in the revised Limited Work Authorizations (LWA) rule requires, in part, that if an application for a COL is submitted in two parts, one part shall be accompanied by information required in 10 CFR 52.80, "Contents of application; additional technical information," paragraph (b). 10 CFR 52.80(b) requires, in part, that if an LWA is not requested, then an ER in accordance with 10 CFR 51.50, "Environmental report – construction permit, early site permit, or combined license stage," paragraph (c) must accompany the application. The enclosed partial COL application includes an ER entitled "Applicant's Environmental Report – Combined License Stage," which meets the requirements of the new 10 CFR 51.50(c) that is included in the revised 10 CFR 52 rule.

The revised 10 CFR 2.101(a)(5) also requires, in part, that a partial COL application include the information required by 10 CFR 50.33, "Contents of applications; general information." 10 CFR 50.33, including the changes in the revised 10 CFR 52 rule, requires legal and financial information to be submitted. This information is commercial in nature and therefore proprietary. This proprietary information is included in the enclosed partial COL application, and we request that the proprietary information be withheld from public disclosure in accordance with 10 CFR 2.390, "Public inspections, exemptions, request for withholding," paragraph (a)(4). The portion of the partial COL application containing this information is appropriately marked and an affidavit providing the basis for this request for withholding is provided in Enclosure 1. A redacted version of this information is provided as well.

The revised 10 CFR 50.33 also requires that the partial COL application include radiological emergency response plans of State and local governmental entities in the United States that are wholly or partially within the plant exposure pathway Emergency Planning Zone (EPZ), as well as the plans of State governments wholly or partially within the ingestion pathway EPZ. Accordingly, the required radiological emergency response plans are included with the enclosed partial COL application. The officials from St. Mary's county Maryland have requested that the emergency response plan for that county be withheld from public disclosure due to sensitive unclassified non-safeguards information contained within it. This plan has been appropriately marked and we request that it be withheld from public disclosure in accordance with 10 CFR 2.390(d).

Revised 10 CFR 2.101(a)(5) also requires, in part, that a partial COL application include information required by 10 CFR 52.79, "Contents of applications; technical information in final safety analysis report," paragraph (a)(1). The revised 10 CFR 52 rule contains the new 10 CFR 52.79(a)(1). The information required by the revised 10 CFR 52.79(a)(1) is included in Chapter 2, "Site Characteristics," of the reference COL Final Safety Analysis Report, included in the enclosed partial COL application.

Finally, the revised 10 CFR 2.101(a)(5) requires, in part, that a partial COL application include information required by 10 CFR 50.37, "Agreement limiting access to Classified Information." The revised 10 CFR 52 rule includes a new 10 CFR 50.37. This revised 10 CFR 50.37 rule requires that an applicant agree in writing that it will not permit any individual to have access to any facility to possess Restricted Data or classified National Security Information until the individual and/or facility has been approved for access under the provisions of 10 CFR 25, "Access Authorization for Licensee Personnel," and/or 10 CFR 95, "Facility Security Clearance and Safeguarding Information and

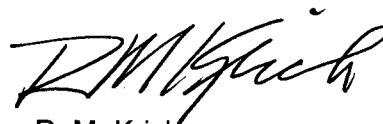
Restricted Data." This written agreement is included in the General Information part of the partial COL application.

UniStar Nuclear considers that the enclosed partial COL application is of high quality and the NRC should undertake its acceptance review as soon as is practicable. Note that information in the enclosed partial COL application that is specific to the Calvert Cliffs site is given in brackets ({ }). Information that is not in brackets is considered generic in that it will be repeated in subsequent COL applications.

If you have any questions or need additional information, contact me at (410) 864-6441.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 13, 2007



R. M. Krich
UniStar Nuclear Development, LLC

Enclosures: 1) Affidavit
 2) Partial COL Application

cc: U.S. NRC Region I (2 copies)
 U.S. NRC Resident Inspector, Calvert Cliffs Nuclear Power Plant, Units 1 and 2
 NRC Project Manager, U.S. EPR Combined License Application
 NRC Project Manager, U.S. EPR Design Certification Application (w/o enclosures)

ENCLOSURE 1

Affidavit

ENCLOSURE
Affidavit of Rod M. Krich
(Page 1 of 2)

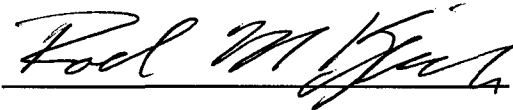
Rod M. Krich, being duly sworn, hereby deposes and states as follows:

1. My name is Rod M. Krich. I am the Senior Vice President, Regulatory Affairs for UniStar Nuclear.
2. I have been authorized by UniStar Nuclear to execute this affidavit in support of UniStar Nuclear's request to withhold the "Proprietary Information Binder" section of the letter dated July 13, 2007, "Submittal of a Partial Combined License Application for Calvert Cliffs Nuclear Power Plant, Unit 3, Application for Withholding of Documents and Request for Exemption," hereafter referred to as the "Proprietary Information Binder," from public disclosure in accordance with the Nuclear Regulatory Commission's ("NRC's") regulations appearing at 10 C.F.R. § 2.390(a)(4).
3. The Proprietary Information Binder is being submitted as a proprietary and confidential document as part of an enclosure to UniStar Nuclear's letter UN#07-008 from myself to NRC's Document Control Desk.
4. The Proprietary Information Binder includes detailed financial information regarding costs and projections associated with the construction and operation of the proposed US EPR nuclear Power plant at the Calvert Cliffs sites (i.e., Unit 3) and financial information concerning Constellation Generation Group, LLC. The Proprietary Information Binder also contains sensitive unclassified non-safeguards emergency preparedness information. Finally, the Proprietary Information Binder provides information, i.e., dates, that UniStar Nuclear considers to be confidential to UniStar Nuclear and its current and prospective alliance partners.
5. The Proprietary Information Binder was prepared with the explicit understanding that the document itself and the information contained within it would be treated as proprietary and confidential. UniStar Nuclear maintains the position that the Proprietary Information Binder and the information contained therein be withheld from public disclosure, and in fact UniStar Nuclear has refrained from publicly disclosing the document or its contents.. To the best of my knowledge and belief, neither the Proprietary Information Binder nor the information contained therein is available in any public source.
6. If the Proprietary Information Binder or its contents were publicly disclosed, UniStar Nuclear and Constellation Generation would suffer irreparable and incalculable harm. Specifically, UniStar Nuclear's competitors would gain valuable insight into otherwise unavailable business strategies, plans, and financial details. By knowing the details included in the Proprietary Information Binder, UniStar Nuclear's competitors would obtain an unfair commercial advantage that would significantly affect UniStar Nuclear's ability to compete. In addition, the success of the UniStar Nuclear's future plans is governed in large part by the financial details and projections, and thus to publicly disclose this information as reflected in Proprietary

Information Binder would result in substantial harm to the competitive position of UniStar Nuclear.

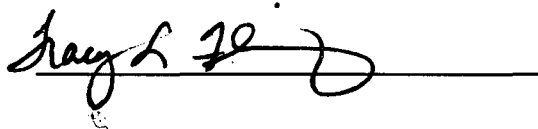
7. Financial information by its nature is treated as confidential. Neither the specific financial details in the Proprietary Information Binder nor the Proprietary Information Binder itself have been publicly released for the reasons set forth above. Accordingly, withholding the Proprietary Information Binder from disclosure will not adversely affect the public.
8. A redacted version of the Proprietary Information Binder, entitled, "General Information," has been provided. This version is for public disclosure.
9. The Proprietary Information Binder is being submitted to the NRC in confidence. The document and the information contained within is of a sort customarily held in confidence by UniStar Nuclear, and in fact has been held in confidence and not previously publicly released.

Further Affiant sayeth not.



Rod M. Krich
Senior Vice President, Regulatory Affairs,
UniStar Nuclear

Subscribed and sworn to before me,
Notary Public, this 12 day of July, 2007:



My Commission expires:

TRACY L. FLEMING
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires March 22, 2011

ENCLOSURE 2

Partial COL Application

**CCNPP Unit 3 COLA Submittal Contents
(Packing List)**

Box 1

- I. Transmittal Letter
- II. License Application – General Information (one, 1” binder)
- III. License Application – Proprietary Information (one, 1” binder)
- IV. Final Safety Analysis Report (four, 2” binders)
 - Volume 1: Section 2.0, Site Characteristics; through Section 2.3, Meteorology
 - Volume 2: Section 2.3, Meteorology; through Section 2.4, Hydrologic Engineering
 - Volume 3: Section 2.4, Hydrologic Engineering (cont’d); through Section 2.5, Geology, Seismology, and Geotechnical Engineering
 - Volume 4: Section 2.5, Geology, Seismology, and Geotechnical Engineering (cont’d)

Box 2

- V. Environmental Report (six, 2” binders)
 - Volume 1: Section 1.0, Introduction; through Section 2.4, Ecology
 - Volume 2: Section 2.5, Socioeconomics; through Section 2.6, Geology
 - Volume 3: Section 2.7, Meteorology
 - Volume 4: Section 2.7, Meteorology (cont’d); through Section 3.8, Transportation of Radioactive Materials
 - Volume 5: Section 4.0, Environmental Impacts of Construction; through Section 5.12, Non-Radiological Health Impacts
 - Volume 6: Section 6.0, Environmental Measurements and Monitoring Programs; through Section 10.5, Cumulative Impacts

Box 3

- VI. Geotechnical Subsurface Investigation Data Report (three, 3” binders)
 - Binder 1: Introductory Material; through Appendix E, Field Electrical Resistivity
 - Binder 2: Appendix F, Core Penetration Test; through Appendix H, SPT Hammer Energy Study
 - Binder 3: Appendix I, Soil Laboratory Testing

**CCNPP Unit 3 COLA Submittal Contents
(Packing List)**

Box 4

VII. Emergency Plans

- District of Columbia Emergency Plan (one, 2" binder)
- State of Delaware Emergency Plan (one, 3" binder; and three 2" binders)
 - Volume 1 (3" binder): Table of Contents; through Section 11.0, Agreement
 - Volume 2 (2" binder): SOP 100; through SOP 311
 - Volume 3 (2" binder): SOP 500; through SOP 900
 - Volume 4 (2" binder): SOP 1000; through SOP 1502
- State of Virginia Emergency Plan (two, 2" binders)
 - Volume 1: Table of Contents, through Appendix 18
 - Volume 2: Annex A, through Annex M
- District of Columbia Emergency Plan (one, 2" binder)
- Calvert County Emergency Plan (one, 2" binder)
- Dorchester County Emergency Plan (one, 2" binder)
- St. Mary's County Emergency Plan (one, 2" binder)