

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
TRANSFER OF OPERATING AUTHORITY - NUCLEAR MANAGEMENT COMPANY
TO NORTHERN STATES POWER COMPANY FOR
MONTICELLO NUCLEAR GENERATING PLANT (MNGP)
PRAIRIE ISLAND NUCLEAR GENERATING PLANT (PINGP)
AND THE PINGP INDEPENDENT SPENT FUEL STORAGE INSTALLATION (ISFSI)
DOCKET NOS. 50-263, 50-282, 50-306 AND 72-10

1.0 INTRODUCTION

By application dated April 16, 2008 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML081090353), as supplemented by letter dated August 6, 2008 (ADAMS Accession No. ML082200121), Nuclear Management Company, LLC (NMC), licensed operator for MNGP, PINGP, and the PINGP ISFSI, and Northern States Power Company, a Minnesota corporation (NSPM), licensed owner of the aforementioned facilities, requested an order consenting to the transfer of operating authority for those facilities from NMC to NSPM.

The application also requested conforming amendments to the operating licenses for the subject facilities to reflect NSPM as the licensed operator of those facilities.

Ownership of MNGP, PINGP, and the PINGP ISFSI will not be affected by the proposed transfer of operating authority to NSPM. According to the application, NSPM will retain its current ownership interests in all of the subject facilities, and “the integration of NMC [its capabilities, personnel, and procedures] into the current NSPM organization combines the ownership and operating authority [for those facilities] into a single organization thus providing a corporate arrangement that combines the continued commitment and qualifications for the safe, reliable and cost-effective operation of the facilities.”

In 2000, the Nuclear Regulatory Commission (NRC) authorized NSPM, the owner of MNGP, PINGP, and the PINGP ISFSI to transfer operating authority for those facilities to the newly formed NMC. NMC also obtained operating authority over several other nuclear power plants not owned by NSPM. Because of the subsequent sale of those non-NSPM-owned facilities to other entities, NMC now only has operating authority over facilities that continue to be owned by NSPM, i.e., MNGP, PINGP and the PINGP ISFSI.

NSPM is an operating public utility principally involved in the generation, purchase, transmission, distribution, and sale of electricity in U.S. Western and Midwestern states. NSPM, as holder of Facility Operating License Nos. DPR-22, DPR-42, and DPR-60 for MNGP and PINGP, is authorized to possess, use, and operate those facilities. Under Material License No. SNM-2506, NSPM is authorized to receive, possess, transfer, and store power reactor spent fuel at the PINGP ISFSI.

2.0 REGULATORY EVALUATION

The applicants requested the approval of the direct transfer of operating authority for MNGP, PINGP, and the PINGP ISFSI from NMC to NSPM pursuant to 10 CFR 50.80 and 10 CFR 70.50. Section 50.80(a) states that “[no] license for a production or utilization facility..., or any right thereunder, shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing.”

In addition, the requirements of 10 CFR 50.80(b) and (c) apply. Section 50.80(b) states that an application for transfer of an operating license shall include as much of the information described in 10 CFR 50.33 and 50.34 “with respect to the identity and technical and financial qualifications of the proposed transferee as would be required by those sections if the application were for an initial license.” Section 50.80(c) states that “the Commission will approve an application for the transfer of a license, if the Commission determines: (1) [t]hat the proposed transferee is qualified to be the holder of the license, and (2) [t]hat transfer of the license is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.”

The NRC staff used the following regulations and guidance for the technical qualification evaluation: 10 CFR 50.40(b), “Common standards;” 10 CFR 50.80, “Transfer of licenses;” the Standard Review Plan (SRP) (NUREG-0800), Section 13.1.1, “Management and Technical Support Organization,” and SRP Sections 13.1.2 - 13.1.3, “Operating Organization.”

3.0 TECHNICAL EVALUATION

3.1 Financial Qualifications

As a general matter, the Commission has determined that transferees of operating authority are subject to a financial qualifications review. See *Northern States Power Co.* (Monticello Nuclear Generating Plant, et al), CLI-00-14, 52 NRC 37 (2000). NSPM is an electric utility, as defined in 10 CFR 50.2, in that it is an “. . . entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority.” Pursuant to 10 CFR 50.33(f), NSPM, as an electric utility, is exempt from demonstrating its financial qualifications to operate its MNGP and PINGP licensed facilities. NSPM will continue to be the licensed owner of those facilities as well as the operator established by the proposed transfer of operating authority from NMC to NSPM, and will continue to be responsible for all costs associated with operating those facilities. Therefore, no further financial qualifications review related to MNGP and PINGP is necessary.

With respect to the PINGP ISFSI license, 10 CFR 72.22(e) requires that NSPM show that it possesses the necessary funds or that it has reasonable assurance of obtaining the necessary funds to cover estimated operating costs over the planned life of the ISFSI. In connection with an order dated May 12, 2000, the Commission, in approving the transfer of the operating license for the ISFSI to NSPM (then referred to as "New NSP"), stated in the associated safety evaluation that "the application [for the transfer of the ISFSI operating license to NSPM] states that the ratemaking process to which New NSP will be subject as an electric utility provides reasonable assurance that New NSP will be financially qualified to operate and decommission the Prairie Island ISFSI." Since NSPM remains an electric utility subject to cost of service ratemaking, NSPM is financially qualified to hold the operating authority under the subject license.

3.2 Decommissioning Funding Assurance

The NRC has determined that the requirements to provide assurance of decommissioning funding and provision of an adequate amount of decommissioning funding are necessary to ensure the adequate protection of public health and safety. The regulation in 10 CFR 50.33(k) requires that an applicant for an operating license for a utilization facility contain information to demonstrate how reasonable assurance will be provided that funds will be available to decommission the facility. A similar requirement is imposed on ISFSIs under 10 CFR 72.22(e).

According to the application, NSPM, as the licensed owner of the facilities, is already responsible for decommissioning the NSPM facilities. Thus, the transfer of operating authority under the respective licenses will have no impact on decommissioning funding, and no decommissioning funding assurance analysis, therefore, is necessary in connection with the proposed transfer of operating authority.

3.3 Antitrust

The Atomic Energy Act of 1954, as amended (AEA), does not require or authorize antitrust reviews of post-operating license transfer applications. *Kansas Gas and Electric Co., et al.* (Wolf Creek Generating Station, Unit 1), CLI-99-19, 49 NRC 441 (1999). The NMC and NSPM application postdates the issuance of the operating licenses for MNGP, PINGP, and PINGP ISFSI and, therefore, no antitrust review is required or authorized. The NRC staff notes that there are no existing antitrust license conditions in the subject licenses. Accordingly, there are no antitrust-related issues to resolve with respect to proposed conforming license amendments.

3.4 Foreign Ownership, Control, or Domination

Sections 103d and 104d of the AEA prohibit the NRC from issuing a license for a nuclear power plant to "any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government." The NRC's regulation, 10 CFR 50.38, contains language to implement this prohibition.

The proposed transferee of operating authority and existing licensee with respect to authority to possess the facilities, NSPM, is a Minnesota corporation, and is a wholly-owned subsidiary of Xcel Energy, Inc., also a Minnesota corporation. Xcel Energy, Inc. is a major U.S. electric and gas company in the western and midwestern states. The application includes the names and addresses of NSPM directors and principal officers, all of whom are U.S. citizens. The application states that NSPM is not owned, controlled or dominated by an alien, a foreign corporation, or a foreign government. The NRC staff does not know or have reason to believe otherwise.

3.5 Nuclear Insurance and Indemnity

NSPM, as a holder of the current operating licenses for the NSPM facilities, is already subject to the requirements under Section 170 of the Price-Anderson Act and 10 CFR Part 140 to provide primary insurance and participate in the secondary retrospective insurance pool. NSPM is also already subject to the requirements under 10 CFR 50.54(w) to maintain property insurance. The NRC staff does not know or have any reason to believe that NSPM will be unable to continue to meet the above-described statutory and regulatory insurance requirements which are applicable to all power reactor licensees.

3.6 Conclusion Regarding the Financial Aspects of Operating Authority Transfer

In view of the foregoing, the NRC staff concludes that NSPM is financially qualified to hold the operating authority for the Facility Operating Licenses for MNGP, PINGP, and the PINGP ISFSI, and that the transfer of operating authority under those licenses is otherwise consistent with applicable provisions of laws, regulations, and orders issued by the Commission.

3.7 Organization, Management, and Technical Qualifications

The purpose of this evaluation is to ensure that the proposed corporate management is involved with, informed of, and dedicated to the safe operation of the plant; that sufficient and qualified technical resources will be provided to support safe plant operation and maintenance; and to evaluate proposed changes to the operating organization that may occur as a result of the license transfers.

3.7.1 Management and Technical Support Organization

The NRC staff reviewed the application to determine the acceptability of the proposed corporate management and technical support organization. The staff used the applicable acceptance criteria contained in SRP Section 13.1.1, "Management and Technical Support Organization."

The applicants stated in the application that "upon completion of the transition, NSPM will resume full responsibility for the operation, maintenance and physical security of the facilities. NMC individuals who are employed at Monticello, Prairie Island, or whose

work responsibilities are involved principally in the operation of Monticello, Prairie Island, or Prairie Island ISFSI assets will transition to become NSPM employees and thus maintaining the same structure, technical qualifications and processes currently used in the safe operation of the facilities.”

The applicants stated that “[t]he on-site organization and plant staff, including senior managers, will remain essentially unchanged by the transfer..... Similarly, other than realignment of administrative and support services (such as accounting, business services, and information technology), the organizational structure of the onsite organization, including lines of authority and communication, is not expected to be changed by the transfer.”

Based on the information provided in the application, NSPM has shown and described that its organization for maintaining the existing technical qualifications for the MNGP and PINGP will be equivalent to NMC’s management and technical support organization, regarding which the NRC staff is aware of no deficiencies. Accordingly, the NRC staff concludes that the proposed NSPM organization for managing and its means of providing technical support for the continued operation of the above facilities under both normal and off-normal conditions are in accordance with SRP Section 13.1.1, “Management and Technical Organization.”

3.7.2 Operating Organization

The NRC staff reviewed the application to determine the acceptability of NSPM’s operating organizations and to evaluate proposed changes to the operating organizations as a result of the license transfer. The NRC staff’s review focused on evaluating any changes to the operating organizations proposed as a result of the transfer. The staff evaluated the application using the applicable acceptance criteria contained in SRP Sections 13.1.2 - 1.3, “Operating Organization.”

The applicants stated that:

No physical changes to the facilities are being proposed as part of this application. The conforming amendments that are being requested are limited to those amendments necessary to reflect the new operator and its organization, and to delete references to NMC. NSPM will assume all regulatory commitments and will continue to comply with the current licensing bases of the facilities.

The on-site organization and plant staff, including senior managers, will remain essentially unchanged by the transfer..... Similarly, other than realignment of administrative and support services (such as accounting, business services, and information technology), the organizational structure of the onsite organization, including lines of authority and communication, is not expected to be changed by the transfer. Certain off-site support services currently being performed by NMC will be assumed by NSPM. If NSPM determines that any senior management

changes will be made contemporaneously with the transfer, NSPM will ensure that the new individuals meet all existing qualifications requirements and will inform the NRC prior to the transfer of operating authority under the Licenses.

The applicants indicated that all of the operating organizations and personnel now responsible for the operation and maintenance of MNGP and PINGP will be transferred from NMC to NSPM. The NRC staff concludes that NSPM's on-site organizations established to operate and maintain the above facilities under both normal and off-normal conditions are in accordance with SRP Sections 13.1.2 - 1.3, "Operating Organization."

3.7.3 Summary of Organization, Management and Technical Qualifications

The applicants indicated that NSPM's corporate level management and technical support organization and the on-site operating organization that will be responsible for the operation and maintenance of MNGP and PINGP will be effectually unchanged from that of NMC after the transfer of licensed operating authority to NSPM. The NRC staff concludes that NSPM will have an acceptable corporate organization, onsite organization, and adequate resources to provide technical support for the safe operation of the facilities under both normal and off-normal conditions after the transfer of licensed operating authority from NMC to NSPM. The applicants adequately addressed the technical qualification requirements of 10 CFR 50.40 (b) and 10 CFR 50.80.

Accordingly, in light of the foregoing evaluation, the NRC staff concludes that NSPM will be technically qualified to hold the operating authority under the licenses for MNGP and PINGP, and the PINGP ISFSI.

3.8 Proposed Conforming Amendments to the Licenses

As stated previously, NMC and NSPM requested approval of proposed conforming amendments to the operating licenses for MNGP, PINGP, and the PINGP ISFSI. According to the application, no physical or operational changes to the facilities are requested.

The changes to be made to the licenses are indicated in the conforming amendments in Enclosure 2 to the cover letter forwarding the NRC staff's order regarding the subject transfer. The changes conveyed by the conforming amendments do no more than accurately reflect the approved transfer action. The amendments involve no safety questions and are administrative in nature. Accordingly, the proposed amendments are acceptable.

In accordance with the Commission's regulations, the Minnesota State official was notified of the proposed issuance of the amendments. The State official had no comment.

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 amendments will not be inimical to the common defense and security or to the health and safety of the public.

4.0 ENVIRONMENTAL CONSIDERATION

The subject application is for approval of transfers of licensed operating authority from NMC to NMPC, and approval of conforming amendments. Accordingly, the actions involved meet the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(21). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with approval of the application.

5.0 CONCLUSION

In view of the foregoing, the NRC staff finds that, subject to the conditions discussed herein, NSPM is qualified to hold the operating authority of MNGP and PINGP under the 10 CFR Part 50 licenses, and to hold the operating authority of the PINGP ISFSI under the 10 CFR Part 72 license, and that the direct transfer of the licensed authority from NMC to NSPM is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

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