December 4, 2008

MEMORANDUM TO: Harold K. Chernoff, Chief
Plant Licensing Branch I-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

FROM: Peter Bamford, Project Manager ***/ra/***
Plant Licensing Branch I-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

SUBJECT: THREE MILE ISLAND, UNIT NO. 1 - ELECTRONIC TRANSMISSION, DRAFT REQUEST FOR ADDITIONAL INFORMATION REGARDING REQUEST FOR EXEMPTION FROM 10 CFR 50, APPENDIX R, SECTION III.G, "FIRE PROTECTION OF SAFE SHUTDOWN CAPABILITY," (TAC NO. MD8081)

The attached draft request for additional information (RAI) was transmitted by electronic transmission on December 4, 2008 to Mr. Glenn Stewart, at AmerGen Energy Company, LLC (AmerGen, the licensee). This draft RAI was transmitted to facilitate the technical review being conducted by the Nuclear Regulatory Commission (NRC) staff and to support a conference call (if needed) with AmerGen in order to clarify the licensee's request for exemption from the requirements of Title 10 of the *Code of Federal Regulations*, Part 50 (10 CFR 50), Appendix R, Section III.G, "Fire Protection of Safe Shutdown Capability." The draft RAI is related to AmerGen's submittal dated February 4, 2008. The draft questions were sent to ensure that they were understandable, the regulatory basis was clear, and to determine if the information was previously docketed. Additionally, review of the draft RAI would allow AmerGen to evaluate and agree upon a schedule to respond to the RAI. This memorandum and the attachment do not represent an NRC staff position.

Docket Nos. 50-289

Enclosure: As stated

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The attached draft request for additional information (RAI) was transmitted by electronic transmission on December 2, 2008 to Mr. Glenn Stewart, at AmerGen Energy Company, LLC (AmerGen, the licensee). This draft RAI was transmitted to facilitate the technical review being conducted by the Nuclear Regulatory Commission (NRC) staff and to support a conference call (if needed) with AmerGen in order to clarify the licensee's request for exemption from the requirements of Title 10 of the *Code of Federal Regulations*, Part 50 (10 CFR 50), Appendix R, Section III.G, "Fire Protection of Safe Shutdown Capability." The draft RAI is related to AmerGen's submittal dated February 4, 2008. The draft questions were sent to ensure that they were understandable, the regulatory basis was clear, and to determine if the information was previously docketed. Additionally, review of the draft RAI would allow AmerGen to evaluate and agree upon a schedule to respond to the RAI. This memorandum and the attachment do not represent an NRC staff position.

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DRAFT

REQUEST FOR ADDITIONAL INFORMATION

THREE MILE ISLAND, UNIT 1

EXEMPTION FROM THE REQUIREMENTS OF 10 CFR PART 50, APPENDIX R, SECTION III.G.2, FOR THE USE OF MANUAL ACTIONS

DOCKET No. 50-289

By letter dated February 4, 2008, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML080350369), AmerGen Energy Company, LLC (AmerGen) requested an exemption for the Three Mile Island Nuclear Station Unit 1 (TMI-1) from the requirements of Title 10 of the *Code of Federal Regulations*, Part 50 (10 CFR 50), Appendix R, Section III.G.2 (III.G.2) for the use of operator manual actions for TMI-1 in lieu of the requirements in III.G.2.

AmerGen is requesting that the Nuclear Regulatory Commission (NRC) approve an exemption request that allows manual actions previously approved in an NRC Fire Protection Safety Evaluation Report (SER). As described in Regulatory Issue Summary (RIS) 2006-10, "Regulatory Expectations with Appendix R Paragraph III.G.2 Operator Manual Actions," an approved exemption is required for all operator manual actions relating to III.G.2, regardless of whether they were accepted in a previously-issued NRC SER for plants licensed before January 1, 1979. This exemption request is limited to those manual actions that were previously accepted in an NRC SER for TMI-1.

The NRC Staff has been reviewing the submittal and has determined that additional information is needed to complete its review.

Background:

Attachment 1, Section II of the February 4, 2008 submittal asserts that the basis for the exemption request per 10 CFR 50.12(a)(2)(ii) is that the referenced operator manual actions have already been found acceptable by the NRC in a prior SER. Title 10 of the *Code of Federal Regulations*, paragraph 50.12(a)(2), states in part, "The Commission will not consider granting an exemption unless special circumstances are present." Furthermore, 10 CFR 50.12(a)(2)(ii) states, in part, that special circumstances are present whenever, "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."

Attachment 2 of the exemption request lists three (3) operator manual actions, in a table format, that exemptions are being requested for. Additionally, AmerGen states that the previously approved operator manual actions are listed in the tables of Attachment 3 to Revision 9 of the TMI-1 Fire Hazard Analysis Report (FHAR).

The first two operator manual actions listed in Attachment 2 of the exemption request refer to Attachment 3-3Q, Page 1, of the TMI-1 FHAR, Revision 9 as the basis for stating that these two

operator manual actions were previously approved. Attachment 3-3Q is titled “Safe Shutdown Equipment.” There is no indication in this attachment that the operator manual actions listed are due to a postulated fire or why they should be permitted in lieu of the protective measures required by III.G.2. Specifically, there is no description of the special circumstances that are present to warrant the consideration of these operator manual actions. Also, there is also no fire area/zone listed that credits these operator manual actions, nor any fire affected component listed whose damage would require these operator manual actions.

The third operator manual action listed in Attachment 2 of this exemption request refers to Attachment 3-0, Sheet 3a, to Revision 9 of the TMI-1 FHAR as the basis for stating that this operator manual action was previously approved. The equipment and required operator manual action cannot be found in Attachment 3-0, Sheet 3a to Revision 9 of the TMI-1 FHAR.

Based on this discussion the following information is requested:

1.) Provide the basis for the special circumstances that are present in this exemption request as required by 10 CFR 50.12(a)(2).

2.) Provide a clear reference to the explanation and technical justification for each of the operator manual actions submitted in Attachment 2 of the exemption request or provide an updated exemption request that includes this information.

    The technical justification should include the documentation or reference to the docketed documentation that the NRC reviewed in support of the referenced SER regarding the manual actions. The documentation may have included the technical criteria for the actions such as calculations, timelines, procedural guidelines, etc., for justifying the operator manual actions and their role in bringing the plant to a hot shutdown condition. References for the fire-affected component should include the number, system, name, and fire area. For the component that is to be operated, information should include the number, system, name, fire area and a brief description of the action required to be taken at the component. Also include the original approved description of the action, and any change or revision to the approved operator manual action since the previous approval. It may be necessary to elaborate on the information that was previously provided in order to adequately describe the basis for the manual actions.

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