From: Richard Guzman
Sent: Wednesday, January 28, 2009 8:45 AM
To: 'Alyse L. Peterson'
Cc: paul_eddy@dps.state.ny.us; "Adela Salame-Alfie" <asa01@health.state.ny.us>; "Stephen M. Gavitt" <smg03@health.state.ny.us>; Andrew Feeney; John Sipos; Hal Brodie; John G. Williams; Jack P. Spath; "Timothy Rice" <tbrice@gw.dec.state.ny.us>; Tom Papura
Subject: RE: NRC request for State Consultation for License Amendment Request - Nine Mile Point Unit No. 1

Follow Up Flag: Follow up
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Alyse,

Thank you for providing comments. As I mentioned last week, the NRC technical staff has reviewed the state comments provided on January 20, and will consider the comments in its technical and safety review of the application. The staff offers the following additional comments:

Regarding the first condition described in the email - "*Containment pressure monitoring must remain functional at all times."*

The staff notes that there is no indication in the LAR that continuous containment monitoring will be affected.

- The licensee stated that the proposed TS Amendment will not affect the scope, performance, or scheduling of Type B and Type C testing.
- The licensee stated that maintaining the containment pressurized at power assures that gross containment leakage that may develop during power operation will be detected.

Regarding the Second Condition - **"***Cost cannot be a factor in NRC's decision***,"**

- The staff takes a "safety first" approach in evaluating the acceptability of the licensee's proposed change against the relevant regulatory requirements. There were no relevant regulatory criteria associated with cost savings/benefit that formed the basis for acceptability of the proposed request in terms of public health and safety.
- The Type A Containment Integrated Leak Rate Test (ILRT), the Type B and Type C Local Leak Rate Tests (LLRT), and Containment In-Service Inspection (CISI) program collectively ensure leak-tight integrity and structural integrity of the containment. The staff's evaluation of NMP1 amendment addresses the current condition of structural and leak-tight integrity of the containment structure and the ability of the licensee's LLRT and CISI programs to detect and manage aging degradation of the containment so that the structural and leak-tight integrity of the containment will be maintained, if the ILRT test interval is extended as proposed by the licensee.

Regarding the comment, "*The LAR states that the successful performance of the last two tests in 1993 and 1999 provided the basis for allowing the previous extension to the current 10 year cycle. It is the same data and justification that is being used to request this extension to 15 years,*"
the staff notes that its technical evaluation considers, in addition to the Type A test history (NMP1's 1993 and 1999 results), the ongoing LLRT, CISI, and containment inspection history, supported by risk analysis.

For additional information related to the staff's review of containment leakage rate testing, the staff offers the following:

- NRC staff's SE for the NEI Topical Report 94-01, Revision 2, "Industry Guideline for Implementing Performance-Based Option of 10 CFR Part 50, Appendix J, and for the EPRI Report, "Risk Impact Assessment of Extended Integrated Leak Rate Testing Intervals, dated June 25, 2008 (ML081140105).
- NRC staff issued RIS 2008-27 (ML080020394) to clarify its position concerning requests to extend Type A test interval beyond 15 years.

Please contact me if you have any additional questions regarding this license amendment review. I'm projecting the amendment to be issued in March/April 2009.
Once again, we appreciate your feedback.

Sincerely,

Rich Guzman
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NRR/DORL
US NRC
301-415-1030
richard.guzman@nrc.gov

From: Alyse L. Peterson [mailto:alp@nyserda.org]
Sent: Tuesday, January 20, 2009 10:00 AM
To: Richard Guzman
Cc: paul_eddy@dps.state.ny.us; "Adela Salame-Alfie" <asa01@health.state.ny.us>; "Stephen M. Gavitt" <smg03@health.state.ny.us>; Andrew Feeney; John Sipos; Hal Brodie; John G. Williams; Jack P. Spath; "Timothy Rice" <tbrice@gw.dec.state.ny.us>; Tom Papura
Subject: RE: NRC request for State Consultation for License Amendment Request - Nine Mile Point Unit No. 1

Good morning Rich,

We have reviewed the referenced Nine Mile Point Unit 1 license amendment request (LAR) for an extension to the ILRT interval and have the following comments.

Although it is presented as a one-time extension, this would be an addition to a previously granted extension and must be considered in that broader context.
The Type A test is a test of the containment integrity which is one of the three primary barriers of protection. Regulations had required this testing to initially be performed on a 48 month basis. The LAR states that the successful performance of the last two tests in 1993 and 1999 provided the basis for allowing the previous extension to the current 10 year cycle. It is the same data and justification that is being used to request this extension to 15 years. In essence what this accomplishes is not just a one-time extension from 10 to 15 years, but actually an extension from 4 to 15 years. Considering the aging of the plant, conducting the Type A tests within the 10 year period, as currently required, becomes more important. If this additional extension is approved, the next test will be in 2014 (or 2013 refueling year), and if successful the 10 year cycle would then permit the next test to be in 2024/2023. This would be approximately 5 years prior to the end of the current license life and 55 years into the operation of the plant.

We recognize that there are other containment leakage tests that provide means for identifying most leakage paths, as discussed below. We also recognize the minimal risk identified in NUREG-1493. Therefore, we are persuaded to allow only this one-time extension provided that the two conditions below are maintained. However, we would remain opposed to any consideration of further extensions beyond what is allowed by applicable codes.

Containment pressure monitoring must remain functional at all times.

Type B & C testing can identify greater than 95% of all potential containment leakage paths leaving less than 5% of the leak paths identifiable solely by Type A testing. Because the containment is inerted with a positive pressure during operation, and the pressure is monitored continuously, there is some assurance that increased leakage would be detected before significant leakage would occur. This continuous monitoring must remain functional at all times.

Cost cannot be a factor in NRC's decision.

The cost of performing the Type A test is mentioned as a reason for this extension, in addition to the reduction in dose and the reduction in critical path outage time. We recognize the benefits of having nuclear plants in operation as much as possible, but we do not accept reduction in safety or protection of the public over cost considerations. The savings to Constellation by not performing this test would be significant, in addition to the production gains from returning the plant to service sooner. Perhaps the greatest cost consideration, however, lies in the risk of failure of the Type A test. If the plant were to fail the test, Constellation would have to make necessary repairs and retest until satisfactory results were achieved. This would mean that following the failure and repairs there would be one successful test. This would cause the testing cycle to enter a 48 month schedule because two consecutive successful tests are required before the plant could return to the ten year cycle. The risk of failure and the cost to reperform the test in 48 months is a significant impact. The NRC should recognize and weigh the cost considerations in the decision making process. Cost savings are a major consideration for licensees to initiate license amendments. While we do not object to this license amendment request at this time, we do believe that cost avoidance does play a significant role in this and many other license amendment requests, and the NRC should not allow cost considerations to trump safety.

Sincerely,

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Subject: RE: NRC request for State Consultation for License Amendment Request - Nine Mile Point Unit No. 1
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From: Richard Guzman

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