[7590-01-P]

NUCLEAR REGULATORY COMMISSION

SOUTH CAROLINA ELECTRIC AND GAS COMPANY

VIRGIL C. SUMMER NUCLEAR STATION, UNIT 1

DOCKET NO 50-395

EXEMPTION

[NRC-2009-0566]

1.0 BACKGROUND

The South Carolina Electric and Gas Company (the licensee) is the holder of Facility Operating License No. NPF-12 which authorizes operation of the Virgil C. Summer Nuclear Station, Unit 1. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect. The facility consists of a pressurized-water reactor located in Fairfield County in South Carolina.

2.0 REQUEST/ACTION

Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix E, Section IV.F.2.b requires that "Each licensee at each site shall conduct an exercise of its onsite emergency plan every 2 years. …." By letters dated October 15, and November 3, 2009, the licensee requested a one-time exemption from this requirement that would allow postponing the onsite portion of the biennial emergency preparedness exercise from October 2009 until April 2010.

The licensee states that it has made a good faith effort to comply with the regulation in that the biennial exercise was previously scheduled to be performed on October 7, 2009. The licensee further states, "However, a plant trip occurred on October 2, 2009 due to failure of the main generator output breaker. The plant trip required redirection of station resources to

respond to the forced outage and to perform recovery activities. Since the recovery efforts were a major distraction, the decision was made to postpone the exercise." The licensee states that it did participate in the offsite portion of the exercise on October 7, 2009, with Federal, state and local authorities. Therefore, since the scenario for the exercise is known to the licensee emergency response organization (ERO) team members designated for the offsite portion of the exercise, the scenario will require modification for the forthcoming onsite portion of the exercise and a new ERO team will need to be selected to participate in the onsite portion of the biennial exercise.

In summary, as a result of the impact of the combined need to repair the generator output breaker, an ongoing extensive refueling outage, the associated unavailability of key station personnel and the need to perform activities to support the onsite portion of the exercise, the licensee requests an exemption that would allow rescheduling the onsite portion of the exercise from the year 2009 until April 2010.

3.0 DISCUSSION

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, Appendix E, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

Authorized by Law

This exemption would allow the licensee to accommodate these impacts upon its resources by postponing the onsite portion of the exercise from the previously scheduled date of October 2009 until April 2010.

As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50, Appendix E. The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purpose of 10 CFR 50, Appendix E, Section IV.F.2.b requiring licensees to conduct a biennial exercise is to ensure that ERO personnel are familiar with their duties and to test the adequacy of emergency plans. In addition, 10 CFR 50, Appendix E, Section IV.F.2.b also requires licensees to maintain adequate emergency response capabilities during the intervals between biennial exercises by conducting drills to exercise the principal functional areas of emergency response. In order to accommodate the scheduling of full participation exercises, the NRC has allowed licensees to schedule the exercises at any time during the calendar biennium. Conducting the VCSNS full-participation exercise in calendar year 2010 places the exercise past the previously scheduled biennial calendar year of 2009. Since the last biennial exercise on October 2, 2007, the licensee has conducted nine full-Station participation training drills to exercise these principal functional areas, including an after-hours augmentation drill. In addition, at the request of the Federal Emergency Management Agency (FEMA), the licensee supported the State and local authorities with the offsite portion of the biennial exercise on October 7, 2009, thereby facilitating the FEMA evaluation of the State and local authorities. The NRC staff considers the intent of this requirement is met by having conducted these series of training drills.

Based on the above, no new accident precursors are created by allowing the licensee to postpone the onsite portion of the exercise from the previously scheduled date of October 2009

until April 2010. Thus, the probability and consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

Consistent with Common Defense and Security

The proposed exemption would allow rescheduling of the onsite portion of the biennial emergency planning exercise from the previously scheduled date of October 2009 until April 2010. This change to the emergency planning exercise schedule has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

For regulations that require special circumstances for exemptions in accordance with 10 CFR 50.12, special circumstances are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purposes of 10 CFR 50, Appendix E, Section IV.F.2.b requiring licensees to conduct a biennial exercise is to ensure that ERO personnel are familiar with their duties and to test the adequacy of emergency plans. As a result of the licensee participating in the offsite portion of the exercise performed on October 7, 2009, the exercise scenario would be compromised with respect to having the licensee's ERO subsequently conduct the onsite exercise in accordance with that scenario. Thus, to ensure exercise integrity, the scenario will require modification and a new ERO will be selected to participate in the onsite portion of the biennial exercise. The licensee states that with the station currently in a refueling outage, key personnel are not available to complete the scenario modification activities and conduct the exercise prior to the end of calendar year 2009. Section IV.F.2.b of 10 CFR Part 50, Appendix E requires licensees at each site to conduct an exercise of onsite emergency plans biennially with full-participation by each offsite authority having a role under the plan. Since the licensee has conducted nine full-Station participation training drills and supported the FEMA evaluation of the State and local

authorities, the NRC staff considers that these measures are adequate to maintain an acceptable level of emergency preparedness during this period, satisfying the underlying purpose of the rule. Therefore, since the underlying purpose of 10 CFR 50, Appendix E, Section IV.F.2.b is achieved, the special circumstances required by 10 CFR 50.12 for the granting of an exemption exist.

Under 10 CFR 50.12(a)(2)(v), special circumstances are also present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation. The NRC staff finds that the licensee has made good faith efforts to comply with the emergency planning regulations in that it had previously scheduled the onsite portion of the exercise for October 2009 and it had also implemented other emergency planning requirements by conducting the series of onsite drills and the offsite portion of the exercise, as discussed above.

4.0 CONCLUSION

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission, hereby grants South Carolina Electric and Gas Company an exemption from the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.b to conduct the onsite portion of the biennial emergency planning exercise required for 2009, to permit that part of the exercise to be conducted by April 30, 2010 for the Virgil C. Summer Nuclear Station, Unit 1.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (74 FR 66697).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 17th day of December 2009.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

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