



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

March 1, 2010

Mr. Thomas D. Gatlin  
Vice President, Nuclear Operations  
South Carolina Electric & Gas Company  
Post Office Box 88  
Jenkinsville, SC 29065

SUBJECT: VIRGIL C. SUMMER NUCLEAR STATION, UNIT 1 – EXEMPTION FROM THE  
REQUIREMENTS OF 10 CFR PART 73, SECTION 73.55 (TAC NO. ME2917)

Dear Mr. Gatlin:

The U.S. Nuclear Regulatory Commission has approved the enclosed exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, Section 73.55(a)(1), for the Virgil C. Summer Nuclear Station, Unit 1. This action is in response to your application consisting of two letters dated December 11, 2009. Your letters requested an extension of the deadline from March 31, 2010, until September 30, 2010, for the implementation of certain measures in 10 CFR Part 73, as revised on March 27, 2009.

A copy of the exemption is enclosed. The exemption has been forwarded to the Office of the Federal Register for publication.

Sincerely,

  
Robert E. Martin, Senior Project Manager  
Plant Licensing Branch II-1  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket Nos. 50-395

Enclosure:  
Exemption

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
SOUTH CAROLINA ELECTRIC AND GAS COMPANY  
VIRGIL C. SUMMER NUCLEAR STATION, UNIT 1  
DOCKET NO. 50-395  
EXEMPTION

1.0 BACKGROUND

South Carolina Electric and Gas Company, (SCE&G, the licensee) is the holder of Facility Operating License No. NPF-12, which authorizes operation of the Virgil C. Summer Nuclear Station, Unit 1 (VCSNS). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized water reactor located in Fairfield County, South Carolina.

2.0 REQUEST/ACTION

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, "Physical protection of plants and materials," Section 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," published March 27, 2009, effective May 26, 2009, with a full implementation date of March 31, 2010, requires licensees to protect, with high assurance, against radiological sabotage by designing and implementing comprehensive site security plans. The amendments to 10 CFR 73.55 published on March 27, 2009, establish and update generically applicable security requirements similar to those previously imposed by Commission orders issued after the terrorist attacks of September 11,

2001, and implemented by licensees. In addition, the amendments to 10 CFR 73.55 include additional requirements to further enhance site security based upon insights gained from implementation of the post September 11, 2001, security orders. It is from two of these new requirements that VCSNS now seeks an exemption from the March 31, 2010, implementation date. All other physical security requirements established by this recent rulemaking have already been or will be implemented by the licensee by March 31, 2010.

On December 11, 2009, the licensee submitted two letters, SCE&G designation RC-09-0154 (NRC ADAMS ML093490316) and RC-09-0148 (NRC ADAMS ML093480496 and ML093480497), requesting an exemption in accordance with 10 CFR 73.5, "Specific exemptions." SCE&G's letter RC-09-0148, contains security-related information and, accordingly, is not available to the public. SCE&G's letter RC-09-0154 is a redacted version of RC-09-0148 that does not contain security related information. The licensee has requested an exemption from the March 31, 2010, compliance date for two provisions of the revised 10 CFR Part 73, stating that the scope of work necessary to complete these two provisions would require a schedule going past the March 31, 2010, implementation date in the revised 10 CFR Part 73. Specifically, the request is to extend the compliance date for two specific requirements from the current March 31, 2010 deadline to September 30, 2010. Being granted this exemption for the two items would allow the licensee to complete the study, design, planning, procurement, construction, testing, and project closeout for the two areas on a schedule that will allow adherence to the licensee's design control and work control processes.

### 3.0 DISCUSSION OF PART 73 SCHEDULE EXEMPTIONS FROM THE MARCH 31, 2010, FULL IMPLEMENTATION DATE

Pursuant to 10 CFR 73.55(a)(1), "By March 31, 2010, each nuclear power reactor licensee, licensed under 10 CFR Part 50, shall implement the requirements of this section

through its Commission-approved Physical Security Plan, Training and Qualification Plan, Safeguards Contingency Plan, and Cyber Security Plan referred to collectively hereafter as 'security plans.'" Pursuant to 10 CFR 73.5, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 73 when the exemptions are authorized by law, and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

NRC approval of this exemption would, as noted above, allow an extension from March 31, 2010, until September 30, 2010, for the implementation date for two specific requirements of the new rule. The NRC staff has determined that granting of the licensee's proposed exemption would 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.

In the draft final rule provided to the Commission, (SECY-08-0099, dated July 9, 2008), the NRC staff proposed that the requirements of the new regulation be met within 180 days. The Commission directed a change from 180 days to approximately 1 year for licensees to fully implement the new requirements. This change was incorporated into the final rule. From this, it is clear that the Commission wanted to provide a reasonable timeframe for licensees to achieve full compliance.

As noted in the final rule, the Commission also anticipated that licensees would have to conduct site specific analyses to determine what changes were necessary to implement the rule's requirements, and that changes could be accomplished through a variety of licensing mechanisms, including exemptions. Since issuance of the final rule, the Commission has rejected a generic industry request to extend the rule's compliance date for all operating nuclear power plants, but noted that the Commission's regulations provide mechanisms for individual licensees, with good cause, to apply for relief from the compliance date (Reference: June 4,

2009, letter from R. W. Borchardt, NRC, to M. S. Fertel, Nuclear Energy Institute). The licensee's request for an exemption is therefore consistent with the approach set forth by the Commission as discussed in the June 4, 2009, letter.

VCSNS Schedule Exemption Request

The licensee provided detailed information in Enclosures 1 and 2 and attachment 1 (NRC ADAMS ML 093480496) of its letter dated December 11, 2009 (RC-09-0148), requesting an exemption. It describes a plan that proceeds from the now completed study phase to the major activities of design development of the engineering change request package to support the activities necessary for full compliance with Part 73. These activities include the required plant modifications; design development of custom computer software; detailed field planning; work document development; schedule integration including integration of the new equipment with the existing security system; material procurement; field implementation of the required plant modifications including installation of fiber optic cables, large and small diameter conduit and distribution boxes; connections to the computer system; and project closeout. SCE&G has also provided a timeline for achieving full compliance with the new regulation that shows the design, planning procurement, construction, testing, and project closeout activities. SCE&G stated that the project schedule takes into consideration the logistical efforts required to maintain the current defensive strategy while implementing the security system upgrade. SCE&G's letter (RC-09-0148) and its Enclosures 1 and 2 and Attachment 1 (ADAMS ML093480496 and ML093480497) contains security-related information regarding the site security issues, details of specific portions of the new regulation with which SCE&G cannot be in compliance by the March 31, 2010, deadline, why the required changes to the VCSNS security configuration could not be completed by March 31, 2010, and a timeline with critical path activities that would enable SCE&G to achieve full compliance by September 30, 2010. The

timeline provides milestone dates for engineering, planning and procurement, implementation, startup and testing, engineering closeout, and project closeout.

Notwithstanding the scheduler exemptions for these limited requirements, the licensee will continue to be in compliance with all other applicable physical security requirements as described in 10 CFR 73.55 and reflected in its current NRC approved physical security program. By September 30, 2010, VCSNS will be in full compliance with all the regulatory requirements of 10 CFR 73.55, as issued on March 27, 2009.

#### 4.0 CONCLUSION FOR PART 73 SCHEDULE EXEMPTION REQUEST

The NRC staff has reviewed the licensee's submittals and concludes that the licensee has provided adequate justification for its request for an extension of the compliance date to September 30, 2010, with regard to two specific requirements of 10 CFR 73.55.

Accordingly, the Commission has determined that pursuant to 10 CFR 73.5, "Specific exemptions," an exemption from the March 31, 2010, compliance date is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the requested exemption.

The NRC staff has determined that the long-term benefits that will be realized when the licensee's equipment installation is complete justifies extending the full compliance date with regard to the specific requirements of 10 CFR 73.55. The security measures, that SCE&G needs additional time to implement, are new requirements imposed by the March 27, 2009, amendments to 10 CFR 73.55, and are in addition to those required by the security orders issued in response to the events of September 11, 2001. Therefore, it is concluded that the licensee's actions are in the best interest of protecting the public health and safety through the security changes that will result from granting this exemption.

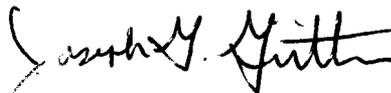
As per the licensee's request and the NRC's regulatory authority to grant an exemption from the March 31, 2010, implementation deadline for the two requirements specified in the licensee's two letters dated December 11, 2009, the licensee is required to be in full compliance by September 30, 2010. In achieving compliance, the licensee is reminded that it is responsible for determining the appropriate licensing mechanism (i.e., 10 CFR 50.54(p) or 10 CFR 50.90) for incorporation of all necessary changes to its security plans.

Pursuant to 10 CFR 51.32, "Finding of no significant impact," the Commission has previously determined that the granting of this exemption will not have a significant effect on the quality of the human environment 75 FR 8756; dated February 25, 2010.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 1<sup>st</sup> day of March, 2010.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink, appearing to read "Joseph G. Gitter". The signature is written in a cursive style with a large initial "J".

Joseph G. Gitter, Director  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

March 1, 2010

Mr. Thomas D. Gatlin  
Vice President, Nuclear Operations  
South Carolina Electric & Gas Company  
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