



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

March 23, 2010

Vice President, Operations  
Entergy Operations, Inc.  
Waterford Steam Electric Station, Unit 3  
17265 River Road  
Killona, LA 70057-3093

SUBJECT: WATERFORD STEAM ELECTRIC STATION, UNIT 3 - EXEMPTION FROM  
THE REQUIREMENTS OF 10 CFR PART 73, SECTION 73.55 (TAC NO.  
ME3108)

Dear Sir or Madam:

The U.S. Nuclear Regulatory Commission (NRC) has approved the enclosed exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Part 73, Section 73.55, for Waterford Steam Electric Station, Unit 3 (Waterford 3). This action is in response to the application dated January 19, 2010, as supplemented by letter dated February 17, 2010, from Entergy Operations, Inc. (the licensee) that requested an extension of the deadline from March 31, 2010, until November 15, 2010, for implementation of certain requirements in 10 CFR Part 73. Portions of the letters dated January 19 and February 17, 2010, contain security-related information and, accordingly, redacted versions of the letters dated January 19 and February 17, 2010, are available for public review in the Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML100210193 and ML100500999, respectively.

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

Sincerely,

A handwritten signature in black ink, appearing to read "N. Kaly Kalyanam".

N. Kaly Kalyanam, Project Manager  
Plant Licensing Branch IV  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket No. 50-382

Enclosure:  
Exemption

cc w/encl: Distribution via Listserv

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ENERGY OPERATIONS, INC.  
WATERFORD STEAM ELECTRIC STATION, UNIT 3  
DOCKET NO. 50-382  
EXEMPTION

1.0 BACKGROUND

Entergy Operations, Inc. (the licensee), is the holder of Facility Operating License No. NPF-38 which authorizes operation of the Waterford Steam Electric Station, Unit 3 (Waterford 3). 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 one pressurized-water reactor located in St. Charles Parish, Louisiana.

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 programs. 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 one of these new requirements that Waterford 3 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.

By letter dated January 19, 2010, as supplemented by letter dated February 17, 2010, the licensee requested an exemption in accordance with 10 CFR 73.5, "Specific exemptions." Portions of the letters dated January 19 and February 17, 2010, contain security-related information and, accordingly, redacted versions of the letters dated January 19 and February 17, 2010, are available for public review in the Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML100210193 and ML100500999, respectively. The licensee has requested an exemption from the March 31, 2010, implementation date stating that it must complete a number of significant modifications to the current site security configuration before all requirements can be met. Specifically, the request is to extend the implementation date from the current March 31, 2010, deadline to November 15, 2010, for one requirement. Granting this exemption for the one item would allow the licensee to complete the modifications designed to update aging equipment and incorporate state-of-the-art technology to meet or exceed the noted regulatory requirement.

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.

This exemption, as noted above, would allow an extension from March 31, 2010, until November 15, 2010, of the implementation date with the new rule in one specified area. As stated above, 10 CFR 73.5 allows the NRC to grant exemptions from the requirements of 10 CFR 73. The NRC staff has determined that granting 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, 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 reach 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 request to generically 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 and discussed in the June 4, 2009, letter.

#### Waterford 3 Schedule Exemption Request

The licensee provided detailed information in attachments to its application dated January 19, 2010, and supplemental letter dated February 17, 2010, requesting an exemption. The licensee describes a comprehensive plan to upgrade to the security capabilities of its Waterford 3 site and provides a timeline for achieving full compliance with the new regulation. Attachments to the letters contain proprietary information regarding the site security plan, details of specific portions of the regulation for which the site cannot be in compliance by the March 31, 2010, deadline, and why, the required changes to the site's security configuration, and a timeline with critical path activities that would enable the licensee to achieve full compliance by November 15, 2010. The timeline provides dates indicating when critical equipment will be ordered, receipt of the equipment, installation, testing, and training.

Notwithstanding the scheduler exemptions for these limited requirements, the licensee would 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 November 15, 2010, Waterford 3 would 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 staff has reviewed the licensee's submittals and concludes that the licensee has justified its request for an extension of the compliance date with regard to one specified requirement of 10 CFR 73.55 until November 15, 2010.

Accordingly, the Commission has determined that pursuant to 10 CFR 73.5, "Specific exemptions," 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 long-term benefits that will be realized when the complete system is in place justifies exceeding the full compliance date in the case of this particular licensee. The security measures Waterford 3 needs additional time to implement are new requirements imposed by 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, the NRC staff concludes 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.

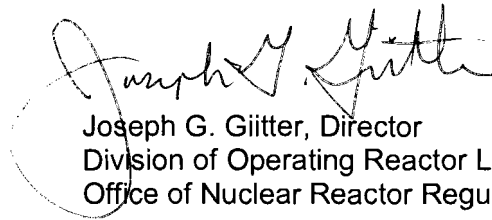
As per the licensee's request and the NRC's regulatory authority to grant an exemption to the March 31, 2010, deadline for the one item specified in the attachment to the Entergy letter dated January 19, 2010, the licensee is required to be in full compliance with 10 CFR 73.55 by November 15, 2010. In 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 13798, dated March 23, 2010).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 23<sup>rd</sup> day of March 2010.

FOR THE NUCLEAR REGULATORY COMMISSION

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

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

March 23, 2010

Vice President, Operations  
Entergy Operations, Inc.  
Waterford Steam Electric Station, Unit 3  
17265 River Road  
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Sincerely,  
/RA/

N. Kaly Kalyanam, Project Manager  
Plant Licensing Branch IV  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket No. 50-382

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Exemption

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**ADAMS Accession Nos.: Letter: ML100640250, Exemption: ML100640256**

\*Memo dated

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DATE	3/11/10	3/15/10	3/23/10	3/23/10

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