



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

November 10, 2010

Mr. James J. Sheppard
Senior Vice President and
Chief Nuclear Officer
Southern California Edison Company
San Onofre Nuclear Generating Station
P.O. Box 128
San Clemente, CA 92674-0128

SUBJECT: SAN ONOFRE NUCLEAR GENERATING STATION, UNITS 2 AND 3 -
EXEMPTION FROM PHYSICAL SECURITY REQUIREMENTS (TAC
NOS. ME4594 AND ME4595)

Dear Mr. Sheppard:

The 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, for the San Onofre Nuclear Generating Station, Units 2 and 3. This action is in response to the application from Southern California Edison (SCE) dated August 24, 2010, as supplemented by letter dated October 17, 2010, that requested a further extension of the deadline for the implementation of one specific security requirement. Pursuant to the NRC's final rule revising 10 CFR Part 73, dated March 27, 2009 (74 FR 13926), certain new security requirements were to be implemented by all licensees by March 31, 2010. However, by letter dated March 16, 2010, the NRC granted an exemption to SCE for two specific items subject to the revised rule, allowing the implementation of one item to be deferred until October 31, 2010, and the implementation of a second item until January 31, 2011. In its letter dated August 24, 2010, SCE requested an exemption to allow further extensions to the implementation dates; until February 28, 2011, for the first item, and until July 31, 2011, for the second item. In its October 17, 2010, supplemental letter, SCE provided additional information supporting the requested extension for implementation of the first item, and also determined that it is currently in compliance with the new rule for the second item, thereby withdrawing its exemption request for the second item. SCE requested the additional extension for implementation of the first item based on delays of more than 3 months in the production, acceptance testing, and delivery of critical security equipment needed to meet the requirements of the new rule.

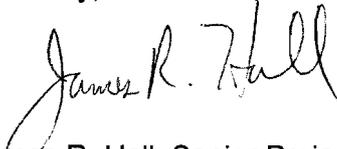
Portions of the August 24 and October 17, 2010, submittals contain safeguards and security-related information and, accordingly, redacted versions of those letters are available for public review in the Agencywide Documents Access and Management System (ADAMS), at Accession Nos. ML102380401 and ML102920691, respectively.

J. Sheppard

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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 that reads "James R. Hall". The signature is written in a cursive style with a large, prominent "J" and "H".

James R. Hall, Senior Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-361 and 50-362

Enclosure:
Exemption

cc w/encl: Distribution via Listserv

NUCLEAR REGULATORY COMMISSION

SOUTHERN CALIFORNIA EDISON

SAN ONOFRE NUCLEAR GENERATING STATION, UNIT 2 AND UNIT 3

DOCKET NOS. 50-361 AND 50-362

EXEMPTION

[NRC-2010-xxxx]

1.0 BACKGROUND

Southern California Edison (SCE, the licensee) is the holder of the Facility Operating License Nos. NPF-10 and NPF-15, which authorize operation of the San Onofre Nuclear Generating Station (SONGS), Unit 2 and Unit 3, respectively. The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect.

The facility consists of two pressurized-water reactors located in San Diego County, California.

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 in the *Federal Register* on 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 (74 FR 13926), establish and update generically applicable security requirements similar to those previously imposed by Commission orders issued after

the terrorist attacks on September 11, 2001, and implemented by the 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 additional requirements that SCE now seeks an exemption from the implementation date. All other physical security requirements established by this recent rulemaking have been implemented by the licensee.

By letter dated August 24, 2010, as supplemented by letter dated October 17, 2010, the licensee requested an exemption in accordance with 10 CFR 73.5, "Specific exemptions." Portions of the August 24 and October 17, 2010, submittals contain safeguards and security-related information and, accordingly, redacted versions of those letters are available for public review in the Agencywide Documents Access and Management System (ADAMS), at Accession Nos. ML102380401 and ML102920691, respectively. By letter dated March 16, 2010 (Accession No. ML100630530), the NRC granted a previous exemption to SCE for two specific items subject to the revised rule in 10 CFR 73.55, allowing the implementation of one item to be deferred until October 31, 2010, and the implementation of a second item until January 31, 2011. The licensee has now requested an additional exemption from the current implementation date established in the prior exemption for one item, based on, in part, significant, unanticipated delays in the production, acceptance testing, and delivery of critical security equipment needed to meet the requirements of the new rule. Specifically, the licensee's request is to extend the implementation date deadline from the current date of October 31, 2010, to February 28, 2011, for one specific requirement. In its October 17, 2010, supplemental letter, SCE provided additional information supporting the requested extension for implementation of the first item, and also determined that it is currently in compliance with the new rule for the second item, thereby withdrawing its exemption request for the second item.

Granting this exemption extending the implementation date for the one remaining item would allow the licensee to complete the modifications designed to update aging equipment and incorporate state-of-the-art technology to meet the noted regulatory requirements.

3.0 DISCUSSION OF PART 73 SCHEDULE EXEMPTION 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 allow an additional extension of the implementation date approved under a previous exemption from October 31, 2010, until February 28, 2011, for one specific remaining requirement of the new rule. As stated above, 10 CFR 73.5 allows the NRC to grant exemptions from the requirements of 10 CFR Part 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 power reactor security 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 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 as documented in a letter from R. W. Borchardt (NRC) to M. S. Fertel (Nuclear Energy Institute) dated June 4, 2009. 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.

SONGS Schedule Exemption Request

The licensee provided detailed information in its letters dated August 24 and October 17, 2010, requesting an exemption. In those letters, the licensee described its comprehensive plan to design, construct, test, and turn over the new equipment for the enhancement of the security capabilities at the SONGS site to achieve full compliance with the new regulation. The August 24 and October 17, 2010, letters contain security-related and safeguards information regarding the site security plan, details of the specific requirements of the regulation for which the licensee seeks exemption, justification for the additional extension request, a description of the required changes to the site's security configuration, and a revised timeline with critical path activities that would enable the licensee to achieve full compliance by February 28, 2011. The timeline provides revised dates indicating when construction will be completed on various phases of the project and when critical equipment will be received, installed, tested and become operational.

Notwithstanding the schedule exemption for this one remaining item, 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 February 28, 2011, SONGS would be in full compliance with all of 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 submittal and concludes that the licensee has provided adequate justification for its request for an extension of the previously authorized compliance date from October 31, 2010, to February 28, 2011, for one specific requirement. This conclusion is based on the staff's determination that SCE has made a good faith effort to meet the requirements in a timely manner, has sufficiently described the reasons for the unanticipated delays, and has provided an updated detailed schedule with adequate justification for the additional time requested for the extension, based on those delays and an expansion to the original scope of work that the staff agrees is needed to ensure that required system capabilities are met.

Accordingly, the Commission has determined that pursuant to 10 CFR 73.5, "Specific exemptions," an exemption to further extend 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 SONGS security modifications are completed justifies exceeding the full compliance date with regard to the specified requirements of 10 CFR 73.55. The significant security enhancements SONGS needs additional time to complete 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 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 from the March 31, 2010, deadline for the one remaining item specified in Enclosure 1 of SCE's letters dated August 24 and October 17, 2010, the licensee is required to be in full compliance by February 28, 2011. 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 69136; November 10, 2010).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 10th day of November 2010.

FOR THE NUCLEAR REGULATORY COMMISSION



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

J. Sheppard

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

Sincerely,

/RA/

James R. Hall, Senior Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-361 and 50-362

Enclosure:
Exemption

cc w/encl: Distribution via Listserv

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ADAMS Accession Nos.: LTR: ML102990350 Exemption: ML102990360 *SE dated

OFFICE	NRR/LPL4/PM	NRR/LPL4/LA	NSIR/DSP/RSRLB/BC	OGC - NLO
NAME	JRHall	JBurkhardt	DHuyck	LSubin
DATE	10/27/10	10/27/10	10/27/10	11/3/10
OFFICE	NRR/LPL4/BC	NRR/DORL/D	NRR/LPL4/PM	
NAME	MMarkley	JGitter	JRHall	
DATE	11/3/10	11/10/10	11/10/10	

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