

**NUCLEAR REGULATORY COMMISSION**

**[Docket No. 50-285; NRC-2011-0239]**

**Omaha Public Power District**

**Fort Calhoun Station, Unit 1**

**Exemption**

1.0 BACKGROUND

Omaha Public Power District (OPPD or the licensee) is the holder of Renewed Facility Operating License No. DPR-40, which authorizes operation of the Fort Calhoun Station, Unit 1 (FCS). 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 Washington County, Nebraska.

2.0 REQUEST/ACTION

Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix E, Sections IV.F.2.b and c require each licensee at each site to conduct an exercise of its onsite and offsite emergency plans biennially with full participation by each offsite authority having a role under the radiological response plan. During a biennial full participation emergency preparedness (EP) exercise, the NRC evaluates onsite EP activities while the Federal Emergency

Management Agency (FEMA) evaluates offsite EP activities. FEMA's evaluation includes interactions with State and local emergency management agencies (EMAs).

On June 6, 2011, FCS personnel declared a Notification of Unusual Event (NOUE) due to flooding of the Missouri River impacting FCS operation. The emergency condition was exited on August 29, 2011, when the Missouri River water level receded below the NOUE entry conditions. The states of Nebraska and Iowa expected Missouri River flood conditions to continue through the summer of 2011, followed by an extensive cleanup/recovery process into the last quarter of calendar year 2011.

FCS successfully conducted a full-participation EP exercise during the week of July 21, 2009. The licensee had scheduled its next full-participation biennial EP exercise for October 18, 2011; however, due to the impact of existing and projected Missouri River flood conditions on FCS and state and local recovery efforts, the licensee is requesting a deferral of its scheduled full-participation EP exercise until calendar year 2012.

The licensee states that this exemption request is justified by the existing and projected flood conditions of the Missouri River at FCS and its impact of the recovery actions on plant personnel, including emergency preparedness and response personnel. The licensee further states that the flood conditions have had a significant impact on the EMAs in Nebraska, Iowa, and local communities. State and local government agencies and response organizations required to participate in the FCS biennial EP exercise are directly involved in the response, recovery, and other continuing activities associated with the flooding of the Missouri River. It is in the best interest of the public to allow continued support of these ongoing efforts by the affected government agencies and response organizations without unnecessary distractions.

By letters dated July 28, 2011, the Nebraska and Iowa EMAs formally requested FEMA to defer the evaluation of offsite response organizations at FCS (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML112521454 and ML112521462,

respectively). By letters to the Nebraska and Iowa EMAs dated August 18, 2011 (ADAMS Accession Nos. ML112420741 and ML112420753, respectively), FEMA agreed to the proposed postponement of the 2011 plume exposure pathway EP exercise until 2012.

Only temporary relief from the regulations is requested. FCS will resume its normal biennial EP exercise schedule in 2013.

### 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 when the exemptions are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) special circumstances are present. These special circumstances include the impact on the licensee's resources in support of onsite recovery actions and the impact on state and local government agencies and response organizations directly involved in the response, recovery, and other continuing activities associated with the Missouri River flooding.

#### Authorized by Law

This exemption would allow the licensee to accommodate impacts on onsite and offsite resources by postponing the biennial EP exercise from the previously scheduled date of October 18, 2011, until 2012.

As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50. 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 purposes for conducting a biennial full-participation EP exercise are to

ensure that emergency organization personnel are familiar with their duties and to test the adequacy of emergency plans. Additionally, 10 CFR Part 50 Appendix E, Section IV.F.2.b requires licensees to maintain adequate emergency response capabilities during the intervals between biennial EP exercises by conducting drills to exercise the principal functional areas of emergency response. In order to accommodate the scheduling of full participation EP exercises, the NRC has allowed licensees to schedule the exercises at any time during the calendar biennium. Conducting the FCS full-participation EP exercise in calendar year 2012 places the exercise past the previously scheduled biennial calendar year of 2011.

The previous biennial full participation EP exercise of the FCS emergency plan was performed on July 21, 2009. The results of this exercise revealed that the overall performance of the emergency response organization demonstrated the implementation of adequate onsite emergency plans. The NRC evaluated the 2009 biennial EP exercise and provided the evaluation results in NRC integrated inspection report 05000285/2009004 dated November 13, 2009 (ADAMS Accession No. ML093170424). No NRC findings of significance with respect to the EP exercise were identified.

OPPD completed several drills and an off-year exercise subsequent to the July 21, 2009, exercise. Details on the drills and exercise were provided in Table 1 of Attachment 2 to the licensee's exemption request dated July 29, 2011 (ADAMS Accession No. ML112130144). The drills and off-year exercise encompassed the principal functional areas of emergency response, including management, coordination of emergency response, accident assessment, protective action decision making, public alerting and notification procedures, and plant systems diagnostics, repairs, and corrective actions.

The NRC staff considers the intent of 10 CFR Part 50, Appendix E, Sections IV.F.2.b and c met by having conducted this series of training drills.

Based on the above, no new accident precursors are created by allowing the licensee to postpone the biennial full participation EP exercise until 2012. 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 FCS to reschedule its biennial full participation EP exercise, originally scheduled for October 18, 2011, to a date mutually agreeable to the NRC, OPPD, and other affected offsite agencies in 2012. This change to the EP exercise schedule has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

Pursuant to 10 CFR 50.12(a)(2), the NRC will consider granting an exemption to the regulations if special circumstances are present. This exemption request meets the special circumstances of paragraphs:

(a)(2)(ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule;

(a)(2)(iv) The exemption would result in benefit to the public health and safety that compensates for any decrease in safety that may result from the grant of the exemption;

(a)(2)(v) 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.

With respect to 10 CFR 50.12(a)(2)(ii), the underlying purpose of 10 CFR Part 50, Appendix E, Sections IV.F.2.b and c are to ensure that emergency response organization personnel are familiar with their duties, to test the adequacy of emergency plans, and to identify and correct weaknesses. The intent of this requirement is also met by the scheduled

emergency plan participation drills and exercises, and provides a benefit by allowing for more opportunities for training of response personnel.

The training drills and off-year exercise conducted at FCS since the last biennial full participation EP exercise on July 21, 2009, have demonstrated the capability of onsite and offsite personnel, meeting the intent of these requirements. These measures are adequate to maintain an acceptable level of emergency preparedness, satisfying the underlying purpose of the rule. Therefore, the special circumstances of 10 CFR 50.12(a)(2)(ii) are satisfied.

With respect to 10 CFR 50.12(a)(2)(iv), the licensee states that the state and local government agencies and response organizations that are required to participate in the FCS biennial EP exercise are directly involved in the response, recovery, and other continuing activities associated with the Missouri River floods, straining the resources of the emergency management teams. Therefore, requiring them to divert their efforts to perform an EP exercise may result in undue stress and risk to the general public and plant personnel. Allowing the affected state and local government agencies, and response organizations to continue their undistracted efforts in response to the Missouri River flood conditions is in the best interest of the public. Therefore, the special circumstances of 10 CFR 50.12(a)(2)(iv) are satisfied.

With respect to 10 CFR 50.12(a)(2)(v), special circumstances are 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 requested exemption is a one-time schedule exemption to allow deferral of the biennial full participation EP exercise of the FCS emergency plan from October 18, 2011, until calendar year 2012 on a date mutually agreeable to the NRC, OPPD, and other affected offsite agencies. OPPD is only requesting temporary relief from the regulation as FCS will resume its normal biennial EP exercise schedule in 2013.

Full participation in the biennial EP exercise of affected offsite government agencies and response organizations had been established and coordinated until it was determined that participation in the biennial exercise would hinder the offsite agencies in the response, recovery, and other activities associated with the Missouri River flooding. The licensee has made good faith efforts to comply with the regulations as the conditions necessitating the requested exemption could not have been foreseen and are beyond the control of OPPD personnel. The requested exemption would provide only temporary relief from the applicable regulation and the licensee has made a good faith effort to comply with the regulation. Therefore, the special circumstances of 10 CFR 50.12(a)(2)(v) are satisfied.

Thus, this exemption request meets the special circumstances of 10 CFR 50.12(a)(2).

#### 4.0 ENVIRONMENTAL CONSIDERATION

This exemption authorizes a one-time exemption from the requirements of 10 CFR 50 Appendix E, Sections IV.F.2.b and c for FCS. The NRC staff has determined that this exemption involves no significant hazards considerations:

(1) The proposed exemption is limited to postponing the 2011 biennial full-participation EP exercise for FCS until 2012 on a one-time only basis. The proposed exemption does not make any changes to the facility or operating procedures and does not alter the design, function or operation of any plant equipment. Therefore, issuance of this exemption does not increase the probability or consequences of an accident previously evaluated.

(2) The proposed exemption is limited to postponing the 2011 full-participation EP biennial exercise for FCS until 2012 on a one-time only basis. The proposed exemption does not make any changes to the facility or operating procedures and would not create any new accident initiators. The proposed exemption does not alter the design, function or operation of

any plant equipment. Therefore, this exemption does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed exemption is limited to postponing the 2011 biennial full-participation EP exercise for FCS until 2012 on a one-time only basis. The proposed exemption does not alter the design, function or operation of any plant equipment. Therefore, this exemption does not involve a significant reduction in the margin of safety.

Based on the above, the NRC staff concludes that the proposed exemption does not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and accordingly, a finding of "no significant hazards consideration" is justified.

The NRC staff has also determined that the exemption involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite; that there is no significant increase in individual or cumulative occupational radiation exposure; that there is no significant construction impact; and there is no significant increase in the potential for or consequences from a radiological accident. Furthermore, the requirement from which the licensee will be exempted involves scheduling requirements. Accordingly, the exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the exemption.

## 5.0 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 OPPD an exemption from the requirements

of 10 CFR Part 50, Appendix E, Sections IV.F.2.b and c to conduct the biennial full participation EP exercise required for 2011, and to permit the exercise to be conducted by 2012 for FCS.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 5<sup>th</sup> day of October 2011.

FOR THE NUCLEAR REGULATORY COMMISSION

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