

From: [Downs, James](#)
To: [Hernandez, Antonia](#)
Subject: FW: ACP License
Date: Thursday, August 16, 2012 3:01:12 PM

From: Downs, James
Sent: Thursday, July 19, 2012 11:37 AM
To: Sea, Geoffrey
Cc: Siurano-Perez, Osiris
Subject: Re: ACP License

Mr. Sea,

The NRC staff has reviewed the questions you asked in a recent email. Below are the NRC staff's responses to your [4 questions](#).

1. [Subject any request to transfer licenses to a new subsidiary to extreme scrutiny including public hearings in Piketon. The newly proposed ACD LLC cannot be considered the same entity as the previously proposed AC LLC.](#)

NRC response:

Based on discussions and information provided by USEC Inc., there is no intention to transfer USEC's materials licenses to American Centrifuge Demonstration, LLC (ACD). USEC continues to pursue the transfer of the materials licenses for the American Centrifuge Lead Cascade and the American Centrifuge Plant from USEC Inc. to American Centrifuge Operating, LLC (ACO), as it previously requested. USEC has stated that it has created American Centrifuge Demonstration (ACD), LLC, for the sole purpose of managing the Research, Development, and Demonstration Project (RD&D) with the U.S. Department of Energy. USEC, Inc. will continue to hold the NRC licenses for the time being.

It should be noted that the NRC's decision to approve the transfers is not transferable to ACD. ACD will not be considered the same entity as ACO. Should USEC decide that it wants to transfer its licenses to ACD, it will need to submit a new license transfer request. The NRC will conduct a full review of the new request.

2. [Suspend all current construction and operating licenses until such time as USEC's financial adequacy are definitively resolved.](#)

NRC response:

License condition #15 specifically addresses the NRC's ongoing financial review of USEC, Inc. during construction of the ACP:

"Construction of each incremental phase of the ACP shall not commence before funding for that increment is available or committed. Of this funding, USEC must have in place before constructing such increment, commitments for one or more of the following: equity contributions from USEC, affiliates and/or partners, along with lending and/or lease arrangements that solely or cumulatively are sufficient to ensure funding for the particular increment's construction costs. USEC shall make available for Nuclear Regulatory Commission (NRC) inspection, documentation of both the budgeted costs for such phase and the source of funds available or committed to pay those costs.

Operation of the ACP shall not commence until USEC has in place either: (1) long term contracts lasting five years or more that provide sufficient funding for the estimated cost of operating the facility for the five year period; (2) documentation of the availability of one or more alternative sources of funds that provide sufficient funding for the estimated cost of operating the facility for five years; or (3) some combination of (1) and (2)."

Additionally, the NRC routinely inspects licensees to ensure facilities are operated in accordance with safety requirements and NRC regulations. If at the time of an inspection the NRC determines that any part of licensee operations is not safe, the NRC will evaluate the cause and, if financial resources are

prohibiting safe operation of the facility, the NRC can take enforcement action, including suspending the license, if necessary. In the event of premature shutdown of the facility, the decommissioning financial assurance instrument can be accessed to decommission the facility if the licensee is unable to perform the activity. To date, none of the inspections performed at USEC Inc. have shown or revealed evidence of financial inadequacies that affect the safe operation of the facilities. The NRC has no reason to conclude that USEC's current financial resources are inadequate for conducting their current licensed activities in a safe manner.

3. End the charade and publicly reveal the extraordinary history of irregularities in this project, including non-cooperation by DOE in sharing crucial information with NRC, and the bizarre mistake of USEC requesting a license for a full-scale commercial facility before its demonstration project had even been begun.

NRC response:

It is not up to the NRC to decide the path the American Centrifuge project takes to commercial production... that is USEC's business decision. The NRC's mission is to ensure that, once an entity engages on licensed activities (including construction), these are performed ensuring adequate protection of public health and the environment, and in accordance with NRC regulations and the conditions of the license. There is nothing in the NRC regulations precluding an applicant from obtaining an NRC license for construction of a facility if the applicant provides all the necessary information for the NRC to authorize construction. However, during construction and once built, the licensee needs to demonstrate that the facility meets all applicable regulations and conditions of the NRC license to operate the facility. Operations at any nuclear facility will not start until the NRC confirms that the licensee meets all regulatory requirements.

4. Minimally, the ACP commercial scale license issued in 2007 should be revoked and nullified. If and when USEC's demonstration proves commercially viable, whatever entity is in charge of the project should apply for a commercial license at that time. Warning that the inversion of the process would lead to precisely this kind of confusion and illegality was given in my petition of intervention in 2005. NRC should have the integrity to acknowledge now that I was precisely correct then.

NRC response:

The NRC has no reason to revoke or nullify USEC's licenses at this time. As discussed in the response to your question #2, NRC's continuous oversight of USEC's licensed activities has not shown safety concerns or issues that warrant revoking the ACP license.

Thank you for your interest,

James Downs
U.S. Nuclear Regulatory Commission
NMSS/FCSS/UEB