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U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

**BELL BEND NUCLEAR POWER PLANT
REQUEST FOR EXEMPTION FROM
10 CFR § 50.71(e)(3)(iii)
BNP-2012-266 Docket No. 52-039**

Reference: 1) BNP-2008-002, T. L. Harpster (PPL Bell Bend, LLC) to U.S. Nuclear Regulatory Commission, "Application for Combined License for the Bell Bend Nuclear Power Plant", dated October 10, 2008

In accordance with the provisions of 10 CFR § 50.12, PPL Bell Bend, LLC (PPL) requests an exemption from the requirements of 10 CFR § 50.71(e)(3)(iii) as applicable to the Final Safety Analysis Report (FSAR), as submitted in Part 2 of the Bell Bend Nuclear Power Plant Combined License Application (BBNPP COLA) (Reference 1). Specifically, PPL requests a delay in the submission of its updated FSAR while work is being completed on the generic aspects of the safety review for the U.S. EPR Design Certification and Reference COLA.

PPL requests an exemption from the requirement to submit the 2012 update to the BBNPP FSAR, and a new deadline for submission of the next updated BBNPP FSAR of April 15, 2013.

The enclosure provides the basis for this exemption request.

The Submittal of the next FSAR update no later than April 15, 2013 is the only new regulatory commitment in this correspondence.

Should you have any questions, please contact the undersigned at 610.774.7552.

Respectfully,


Rocco R. Sgarro

RRS/kw

Enclosure: Basis for Exemption from 10 CFR § 50.71(e)(3)(iii) Bell Bend Nuclear Power Plant

D102
MRO

cc: W/ Enclosure

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Enclosure

Basis for Exemption from 10 CFR § 50.71(e)(3)(iii)
Bell Bend Nuclear Power Plant

Proposed Exemption

As required in 10 CFR § 50.71(e)(3)(iii), applicants for a combined license under 10 CFR Part 52 shall, during the period from docketing of a combined construction permit and operating license (COL) application until the U.S. Nuclear Regulatory Commission (NRC, or Commission) makes a finding under 10 CFR 52.103(g) pertaining to facility operation, submit an annual update to the application's Final Safety Analysis Report (FSAR).

PPL Bell Bend, LLC (PPL) is requesting an exemption from the requirements of 10 CFR 50.71(e)(3)(iii) to submit the 2012 update to the Bell Bend Nuclear Power Plant (BBNPP) FSAR. PPL commits to submit the next FSAR update no later than April 15, 2013.

In summary, the requested exemption is a schedule change from the requirements of 10 CFR § 50.71(e)(3)(iii) to accommodate completion of work on the generic aspects of the safety review for the U.S. EPR Design Certification and Reference COLA (R-COLA), and to incorporate certain R-COLA responses to NRC Requests for Additional Information. Revision 4 to the U.S. EPR FSAR was recently submitted to the NRC on October 5, 2012, and the annual update to the R-COLA FSAR incorporating this information has not yet been submitted, which is a prerequisite to updating the BBNPP FSAR. The exemption would allow PPL to submit the FSAR update in an orderly and efficient manner without undue expenditure of resources after the R-COLA has been updated to reflect the most current revision to the U.S. EPR FSAR. The FSAR annual update is established by regulation; deferral of the annual update requires an exemption.

Background

On October 10, 2008, PPL submitted to the NRC a COL application, under Title 10 of the Code of Federal Regulations (10 CFR), Subpart C of Part 52, to construct and operate a U.S. Evolutionary Power Reactor (U.S. EPR), to be designated Bell Bend Nuclear Power Plant, at the Bell Bend site in Luzerne County, Pennsylvania¹. The NRC Staff accepted and docketed the application on December 19, 2008².

Exemption Requirements

Pursuant to 10 CFR § 50.12(a)(1) and (2), the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, including Section 50.71(e)(3)(iii) when:

- (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and,

¹ T. L. Harpster to U.S. NRC Document Control Desk, "Application for the Combined License for the Bell Bend Nuclear Power Plant," BNP-2008-002, dated October 10, 2008 (ML082880580).

² USNRC to PPL Bell Bend, LLC, "Acceptance for Docketing of an Application for Combined License for Bell Bend Nuclear Power Plant Docket No. 52-039," dated December 19, 2008 (ML083510149).

(2) Special circumstances are present.

Pursuant to 10 CFR § 50.12(a)(2)(v), in part, "special circumstances" exist if:

(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.

Basis for the Exemption

A. Authorized by Law

10 CFR § 50.12 allows the NRC to grant exemptions from the requirements of 10CFR 50.71(e)(3)(iii) without violating the Atomic Energy Act of 1954, as amended, or the Commission's regulations. This exemption request is for a one-time schedule exemption from the requirements of 10 CFR § 50.71(e)(3)(iii). The exemption would allow the applicant to submit the next BBNPP FSAR annual update no later than April 15, 2013.

B. No Undue Risk to Public Health and Safety

The underlying purpose of 10 CFR § 50.71(e)(3)(iii) is to provide for timely, comprehensive update of the FSAR associated with a COL application in order to support an effective and efficient review by NRC staff and issuance of the staff's safety evaluation report. The requested exemption is solely administrative in nature in that it pertains to the schedule for submittal to the NRC of revisions to an application under 10 CFR Part 52 for which a license has not been granted.

Because this exemption is a scheduling and administrative issue, there are no safety implications. No new health or safety issues are created. Neither the probability of postulated accidents nor their consequences are increased in any manner. There is no undue risk to public health and safety.

C. Consistent with Common Defense and Security

This exemption requesting a schedule change has no relation to security issues. The common defense and security is not impacted should this exemption be granted.

D. Special Circumstances

Special circumstances are present.

The purpose of 10 CFR § 50.71(e)(3)(iii) is to provide for timely, comprehensive updates of the FSAR associated with a COLA in order to support an effective and efficient review by NRC staff and issuance of the staff's safety evaluation report.

PPL is requesting only temporary relief from 10 CFR § 50.71(e)(3)(iii) and has made good faith efforts to comply with the regulation. PPL has committed to provide an updated FSAR to the NRC by April 15, 2013. Doing so fulfills the purpose of 10 CFR § 50.71(e)(3)(iii) to support an effective and efficient review by NRC staff and issuance of the staff's safety evaluation report.

For the remainder of 2012, PPL will produce a complete revision to the BBNPP Environmental Report (Part 3 of the COLA), which will incorporate updates to previously answered environmental Requests for Additional Information (RAIs), and provide answers to outstanding NRC environmental RAIs, by mid-November, 2012. PPL will submit a supplement of section 2.5 of the FSAR to provide updated geotechnical information by mid-December, 2012.

The above commitment has impacted PPL resources necessary to align the generic portions of the BBNPP FSAR with the most recent revisions of the U.S. EPR FSAR and the R-COLA FSAR. The R-COLA has not yet been updated to the most recent revision of the U.S. EPR FSAR, or incorporated the R-COLA responses to certain NRC Requests for Additional Information. These are prerequisites to updating the BBNPP FSAR. This exemption will allow sufficient time for these updates to occur in a controlled manner.

Conclusion

Based on the above, the Commission should exempt PPL from the requirement of submitting an annual update to the BBNPP COL application's FSAR in Calendar Year 2012.