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10 CFR 50.12
10 CFR 52.7

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U.S. Nuclear Regulatory Commission
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**SHEARON HARRIS NUCLEAR POWER PLANT, UNITS 2 AND 3
DOCKET NOS. 52-022 AND 52-023
REQUEST FOR EXEMPTION FROM NOVEMBER 2011 FINAL RULE CONCERNING
ENHANCEMENTS TO EMERGENCY PREPAREDNESS REGULATIONS (RIN 3150-AI10)**

- References:
1. 10 CFR Parts 50 and 52, RIN 3150-AI10, Enhancements to Emergency Preparedness Regulations, November 2011
 2. Letter from James Scarola (PEC) to U.S. Nuclear Regulatory Commission, dated February 18, 2008, "Application for Combined License for Shearon Harris Nuclear Power Plant Units 2 and 3," Serial: NPD-NRC-2008-001
 3. Letter from Christopher M. Fallon (DEP) to U.S. Nuclear Regulatory Commission, dated May 2, 2013, "Combined License Application (COLA) Review," Serial: NPD-NRC-2013-019

Ladies and Gentlemen:

By letter dated February 18, 2008 (Reference 2), Duke Energy Progress, Inc. (DEP) submitted an application for a combined construction permit and operating license for two AP 1000 advanced pressurized water reactors to be located at the existing Shearon Harris Nuclear Plant site. By letter dated May 2, 2013 (Reference 3), DEP requested that the Nuclear Regulatory Commission (NRC) suspend review of the Shearon Harris Nuclear Plant Units 2 and 3 (HAR) combined license application (COLA). The NRC granted that request.

The purpose of this letter is to request an exemption from the requirement that DEP revise the HAR COLA to reflect enhancements to emergency preparedness regulations in accordance with Reference 1 by December 31, 2013, given that the NRC's review of the HAR COLA has been suspended. If the exemption is granted, DEP commits to comply with that requirement within six months following reactivation of the HAR COLA review. Enclosure 1 provides the basis for this exemption request.

If you have any further questions, or need additional information, please contact Bob Kitchen at (704) 382-4046, or me at (704) 382-9248.

AXYS
D084
MRO

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 29, 2013.

Sincerely,

Handwritten signature of Christopher M. Fallon in cursive script.

Christopher M. Fallon
Vice President
Nuclear Development

Enclosure:

1. Basis for Exemption from November 2011 Final Rule Concerning Enhancements to Emergency Preparedness Regulations (RIN 3150-A110)

cc : U.S. NRC Region II, Regional Administrator
U.S. NRC Resident Inspector, SHNPP Unit 1
Mr. Brian Hughes, U.S. NRC Project Manager

Enclosure 1

Basis for Exemption
from November 2011 Final Rule
Concerning
Enhancements to Emergency Preparedness Regulations
(RIN 3150-A110)

I. Proposed Exemption

RIN 3150-A110 (Reference 1), which became effective as a final rule on December 23, 2011 (76 Fed. Reg. 72560), amended certain emergency preparedness requirements in the Nuclear Regulatory Commission's (NRC or Commission) regulations governing domestic licensing of production and utilization facilities. As set forth in 10 CFR Part 50, Appendix E, Section I, the final rule requires that an applicant for a combined license under 10 CFR Part 52, docketed as of the final rule's effective date, revise its combined license application to comply with the changes promulgated by the final rule no later than December 31, 2013.

Duke Energy Progress, Inc. (DEP) is requesting an exemption from the final rule's requirement that DEP submit an update to the Shearon Harris Nuclear Power Plant Units 2 and 3 (HAR) combined license application (COLA) by December 31, 2013, given that the NRC's review of that COLA is currently suspended. DEP commits to submitting such an update within six months following reactivation of the HAR COLA review.

II. Background

By letter dated February 18, 2008 (Reference 2), DEP submitted the HAR COLA, under 10 CFR Part 52, Subpart C, of the NRC's regulations. The NRC staff docketed the application on April 17, 2008 (Reference 3). By letter dated May 2, 2013, DEP requested that the NRC suspend the review of the HAR COLA and related activities (Reference 4). The NRC agreed to the requested suspension. The HAR COLA remains docketed.

III. 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 when:

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

Pursuant to 10 CFR § 50.12(a)(2)(v), "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.

IV. Basis for the Exemption

A. *Authorized by Law*

The requested exemption is authorized by law. As set forth above, 10 CFR § 50.12 allows the NRC to grant exemptions from the requirements of Part 50, such as those issued under RIN 3150-A110, without violating the Atomic Energy Act of 1954, as amended, or the Commission's

regulations. This exemption request is for temporary relief from the deadline for compliance with RIN 3150-A110, given that the NRC's review of the HAR COLA has been suspended. The exemption would allow the applicant to demonstrate compliance with the emergency preparedness enhancements of RIN 3150-A110 via submission of an updated HAR COLA within six months following reactivation of the NRC's HAR COLA review.

B. No Undue Risk to Public Health and Safety

Granting the requested exemption will not create undue risk to public health and safety. The underlying purpose of the deadline for compliance with RIN 3150-A110 is to provide for a timely, comprehensive update of the emergency preparedness requirements in a COLA in order to support an effective and efficient review of the COLA 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 timing for submitting revisions to the HAR COLA for which the NRC's review has been suspended.

Because this exemption request relates only to a timing and administrative issue regarding a suspended COLA, and not to a license that has been or is about to be granted, there are no safety implications associated with granting this exemption request. No new health or safety issues will be created if the filing deadline for complying with RIN 3150-A110 is postponed, in this case, until six months after the COLA review is reactivated. Neither the probability of postulated accidents nor their consequences would be increased in any manner if the request were granted. There would be no undue risk to public health and safety.

C. Consistent with Common Defense and Security

Granting the requested exemption is consistent with the common defense and security. This exemption requesting a change in the timing for submitting an update to a suspended COLA has no relation to common defense and security issues. The common defense and security would not be impacted by granting this exemption.

D. Special Circumstances

Special circumstances supporting this exemption request are present under 10 CFR § 50.12(2)(v).

10 CFR § 50.12(2)(v) states that special circumstances are present where the exemption would provide only temporary relief from the regulation and the applicant has made a good faith effort to comply with the regulation. DEP's exemption request seeks only temporary relief from the requirement that it file an update complying with RIN 3150-A110. DEP requests exemption from the December 31, 2013 deadline because review of the HAR COLA is suspended. DEP is committing, however, to provide the required update within six months following reactivation of the HAR COLA review. Committing to provide the update within six months following any reactivation of the HAR COLA review fulfills the purpose of RIN 3150-A110 to support an effective and efficient review of the COLA by NRC staff and issuance of the staff's safety evaluation report. Accordingly, DEP is acting in good faith to comply with the regulation.

V. Conclusion

Based on the considerations discussed above, the requested exemption:

- (1) is authorized by law,
- (2) will not present an undue risk to public health and safety,
- (3) is consistent with the common defense and security, and
- (4) special circumstances are present.

Therefore, DEP requests that the Commission exempt DEP from the requirement of submitting a HAR COLA with updated emergency preparedness requirements, demonstrating compliance with RIN 3150-AI10, until six months after the HAR COLA review is reactivated.

VI. References

1. 10 CFR Parts 50 and 52, RIN 3150-AI10, Enhancements to Emergency Preparedness Regulations, November 2011
2. Letter from James Scarola (PEC) to U.S. Nuclear Regulatory Commission (NRC), dated February 18, 2008, "Application for Combined License for Shearon Harris Nuclear Power Plant Units 2 and 3," Serial: NPD-NRC-2008-001
3. Letter from U.S. Nuclear Regulatory Commission (NRC) to James Scarola (PEC), dated April 17, 2008, "Acceptance Review for the Shearon Harris Nuclear Power Plant Units 2 and 3 Combined License Application."
4. Letter from Christopher M. Fallon (DEP) to U.S. Nuclear Regulatory Commission (NRC), dated May 2, 2013, "Combined License Application (COLA) Review," Serial: NPD-NRC-2013-019