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R3NO-2013-00001

September 30, 2013

U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attention: Document Control Desk

DOCKET: No. 52-036

SUBJECT: River Bend Station Unit 3 COLA Exemption Requests

- REFERENCES:
1. NRC Letter to Entergy Nuclear, Acceptance for Docketing of the Entergy Operations, Inc. Application for a Combined License for River Bend Station Unit 3 and Associated Federal Register Notice, dated December 4, 2008 (ADAMS Accession No. ML083370275).
 2. NRC Letter to Entergy, Staff Review of the Combined License Application for River Bend Station, Unit 3, dated January 12, 2009 (ADAMS Accession No. ML090080277).

Dear Sir or Madam:

In Reference 1, the NRC accepted for docketing the Entergy Operations, Inc. (Entergy) application for a combined license (COL) for River Bend Station, Unit 3. The application was based on the General Electric-Hitachi Economic Simplified Boiling Water Reactor (ESBWR) technology. In Reference 2, the Staff acknowledged receipt of our January 9, 2009 letter requesting that the NRC temporarily suspend its review of the River Bend Station, Unit 3 (RBS3) COL until further notice pending our re-evaluation of alternative reactor technologies.

Entergy requests an exemption from the requirement to submit an update to the RBS3 Emergency Plan (EP) by December 31, 2013, and commits to submit an updated RBS3 EP prior to or coincident with reactivation of the RBS3 Combined License Application (COLA) review. Attachment 2 provides the basis for this exemption request.

Entergy additionally requests an exemption from the requirement to submit updates to the RBS3 Final Safety Analysis Report (FSAR) while the COL review is suspended, and commits to submit an updated FSAR prior to or coincident with reactivation of the RBS3 Combined License Application (COLA) review. Attachment 3 provides the basis for this exemption request.

This letter contains two commitments as identified in Attachment 1.

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Should you have any questions, please contact me.

I declare under penalty of perjury that the foregoing is true and correct; executed on September 30, 2013.

Sincerely,

A handwritten signature in black ink, appearing to read "BF/gaz". The signature is fluid and cursive, with the first part being a stylized "BF" and the second part being "gaz".

BF/gaz

cc:

NRC Project Manager- River Bend Station Unit 3 COLA (John Klos)
NRC Director- Division of Construction Projects (Region II)
NRC Regional Administrator - Region IV
NRC Resident Inspectors' Office- RBS

ATTACHMENT 1

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REGULATORY COMMITMENTS

REGULATORY COMMITMENTS

The following table identifies those actions committed to by Entergy in this document. Any other statements in this submittal are provided for information purposes and are not considered to be regulatory commitments.

COMMITMENT	TYPE (Check one)		SCHEDULED COMPLETION DATE (If Required)
	ONE-TIME ACTION	CONTINUING COMPLIANCE	
Entergy will submit an upgrade of the updated RBS3 EP prior to or coincident with a request for reactivation of the RBS3 Combined License Application (COLA) review.	✓		
Entergy will submit an updated RBS3 FSAR prior to or coincident with a request for reactivation of the RBS3 Combined License Application (COLA) review.	✓		

ATTACHMENT 2

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REQUEST FOR EXEMPTION FROM IMPLEMENTATION

SCHEDULE FOR ENHANCEMENTS TO EMERGENCY

PREPAREDNESS REGULATIONS

I. Proposed Exemption

10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), requires that applicants for a combined license (COL) under Title 10 of the Code of Federal Regulations (10 CFR) Part 52, docketed as of the final rule's effective date, shall demonstrate compliance with this rule 'no later than December 31, 2013.'

Entergy Operations, Inc. (Entergy) is requesting an exemption from the requirement of 10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), to submit an update to the River Bend Station Unit 3 (RBS3) Emergency Plan (EP), addressing the enhancements to Emergency Preparedness Regulations. Entergy commits to submit an upgrade of the updated RBS3 EP prior to or coincident with a request for reactivation of the RBS3 Combined License Application (COLA) review.

In summary, the requested exemption is a schedule change from the requirement of 10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), recognizing that the review of the RBS3 Combined License Application is in a state of temporary suspension.

II. Background

On September 25, 2008, Entergy 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 an Economic Simplified Boiling Water Reactor (ESBWR), to be designated RBS3, at EOI's River Bend Station site near St. Francisville, Louisiana. The NRC Staff docketed the application on December 4, 2008. In addition, the NRC is currently performing a detailed review of the GE-Hitachi Nuclear Energy (GEH) application for design certification of the ESBWR.

By letter dated January 9, 2009, Entergy requested that the NRC suspend the review of the RBS3 COL application and related activities. Based on that request, the NRC suspended their review activities relating to the RBS3 COL application. The RBS3 COL application 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 or safety, and are consistent with the common defense and security; and,
- (2) Special circumstances are present.

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

(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; or

(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*

10 CFR § 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), without violating the Atomic Energy Act of 1954, as amended, or the Commission's regulations. This exemption request is for temporary relief from the requirements of 10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21). The exemption would allow the applicant to demonstrate compliance with the emergency preparedness enhancements of 10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), via submission of an updated RBS3 Emergency Plan prior to reactivation of the RBS3 Combined License Application (COLA) review.

B. *No Undue Risk to Public Health and Safety*

The underlying purpose of 10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), is to provide for timely, comprehensive update of the Emergency Plan (EP) 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 by this exemption.

D. *Special Circumstances*

Special circumstances are present. The purpose of 10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), is to provide for timely, comprehensive updates of the EP 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.

Entergy is requesting only temporary relief from 10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), and has made good faith efforts to comply with the regulation. Entergy has committed to provide an updated EP to the NRC prior to reactivation of the RBS3 Combined License Application (COLA) review. Doing so fulfills the purpose of 10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), to support an effective and efficient review by NRC staff and issuance of the staff's safety evaluation report.

The requested exemption is a schedule change from the requirement of 10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), to demonstrate compliance with the Final Rule by December 31, 2013.

V. Conclusion

Based on the above, the Commission is requested to exempt Entergy from the requirement of submitting an updated Emergency Plan to the RBS3 COL application, demonstrating compliance with 10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), until the RBS3 COLA review is reactivated.

ATTACHMENT 3

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REQUEST FOR EXEMPTION FROM FSAR

UPDATE REQUIREMENTS

I. Proposed Exemption

10 CFR § 50.71 (e)(3)(iii) (as referenced in 10 CFR 52.3(b)(6)) requires that applicants for a combined license (COL) under Title 10 of the Code of Federal Regulations (10 CFR) Part 52 shall, during the period from docketing of the 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).

Entergy Operations, Inc. (Entergy) is requesting an exemption from the requirements of 10 CFR § 50.71 (e)(3)(iii) to submit the annual update to the River Bend Station Unit 3 (RBS3) FSAR while the COL application review is suspended. Entergy commits to submit the next updated RBS3 FSAR prior to or coincident with a request for reactivation of the RBS3 Combined License Application (COLA) review.

The requested exemption is a schedule change from the requirements of 10 CFR § 50.71 (e)(3)(iii), which is requested in an effort to achieve efficiency and limit the unnecessary expenditure of resources. The exemption would allow the applicant to submit the FSAR update prior to or coincident with a request for reactivation of the RBS3 Combined License Application (COLA) review. The FSAR annual update is established by regulation; deferral of the annual update requires an exemption.

II. Background

On September 25, 2008, Entergy 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 an Economic Simplified Boiling Water Reactor (ESBWR), to be designated RBS3, at EOI's River Bend Station site near St. Francisville, Louisiana. The NRC Staff docketed the application on December 4, 2008. In addition, the NRC is currently performing a detailed review of the GE-Hitachi Nuclear Energy (GEH) application for design certification of the ESBWR.

By letter dated January 9, 2009, Entergy requested that the NRC suspend the review of the RBS3 COL application and related activities. Based on that request, the NRC suspended their review activities relating to the RBS3 COL application. The RBS3 COL application 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 or safety, and are consistent with the common defense and security; and,
- (2) Special circumstances are present.

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

(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; or

(iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated; or

(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

I. Authorized by Law

10 CFR § 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR § 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 schedule exemption from the requirements of 10 CFR § 50.71(e)(3)(iii). The exemption would allow Entergy to submit the next RBS3 FSAR annual update prior to or coincident with reactivation of the RBS3 Combined License Application (COLA) review.

II. 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. Because NRC review of the RBS3 COL application is currently suspended, the update to the COL application will not be reviewed by the NRC. 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.

III. 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 by this exemption

IV. Special Circumstances

Special circumstances are present.

The regulations at 10 CFR 50.71 (e)(3)(iii), requiring annual FSAR update, do not address, and do not appear to have contemplated, a situation in which: (1) the applicant suspended its pursuit of the COL; and (2) the NRC staff has suspended any and all review of the COL application, including the FSAR. As such, providing an annual update to the FSAR would result in an undue hardship and unnecessary costs to Entergy.

The purpose of 10 CFR § 50.71 (e)(3)(iii) is to provide for timely, comprehensive updates 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 FSAR is an extensive document and updating the document will require review and evaluation of changes made to the reference ESBWR design certification application for applicability to the RBS3 COL application, along with updating of general background information in the RBS3 COL application. Despite the effort to provide the updated FSAR, the purpose of 10 CFR § 50.71(e)(3)(iii) will go unfulfilled. The NRC has suspended its review of the COL application, including the FSAR.

Entergy is requesting only temporary relief from 10 CFR § 50.71 (e)(3)(iii) and has made good faith efforts to comply with the regulation. Entergy has committed to provide an updated FSAR to the NRC should it decide to proceed with the COL application in the future. 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.

V. Conclusion

Based on the above, the Commission is requested to exempt Entergy from the requirement of submitting an annual update to the RBS3 COL application FSAR until Entergy decides to request reactivation of the COL application review.