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CNRO-2014-00013

October 16, 2014

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

SUBJECT: Combined License Application Request for Exemption

River Bend Station, Unit 3
Docket No. 52-036

- REFERENCES:
1. Entergy Operations, Inc. letter to the NRC, *Application for Combined License for River Bend Unit 3*, dated September 25, 2008 (ADAMS Accession No. ML082830022)
 2. Entergy Operations, Inc. letter to the NRC, *Grand Gulf Unit 3 and River Bend Station Unit 3 COLA Reviews*, dated January 9, 2009 (ADAMS Accession No. ML090130174)
 3. NRC letter to Entergy Operations, Inc., *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, Entergy Operations, Inc. (Entergy) submitted for NRC review and approval an application for a combined license (COL) for River Bend Station, Unit 3 (RBS3). The application is based on the General Electric - Hitachi (GEH) Economic Simplified Boiling Water Reactor (ESBWR) technology.

In Reference 2, Entergy requested the NRC suspend their review of the RBS3 COL application until further notice pending Entergy's re-evaluation of alternative reactor technologies. As requested, the NRC suspended their review activities, as documented in Reference 3. Entergy has not yet requested the review be reactivated.

On October 15, 2014, the NRC promulgated rulemaking that revised 10 CFR Part 52 to include Appendix E – *Design Certification Rule for the Economic Simplified Boiling Water Reactor*. Paragraph X.A, *Records*, of Appendix E specifies requirements with which applicants must comply regarding the generic ESBWR design control document (DCD) and the plant-specific DCD. Paragraph X.B, *Reporting*, of Appendix E requires applicants to submit certain periodic reports pertaining to these DCDs to the NRC. The schedules for submitting these reports are specified in Paragraph X.B.3.b.

Since Entergy has not yet requested the RBS3 COL application review be reactivated, Entergy requests an exemption from the requirements specified in Paragraphs X.A.1, X.A.2, and X.B.3.b until December 31, 2015 or coincident with resuming the review of the RBS3 COL application, whichever comes first. Attachment 1 provides the justification for the exemption request. Because reports are required to be submitted by February 27, 2015 in accordance with Paragraph X.B.3.b, Entergy requests an expedited review of this exemption request.

This letter contains no new regulatory commitments.

Should you have any questions, please contact Guy Davant at (601) 368-5756.

I declare under penalty of perjury that the foregoing is true and correct; executed on October 16, 2014.

Sincerely,



BSF/ghd

Attachment: Request for Exemption from 10 CFR Part 52, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b

cc:

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ATTACHMENT

CNRO-2014-00013

**REQUEST FOR EXEMPTION FROM 10 CFR PART 52, APPENDIX E,
PARAGRAPHS X.A.1, X.A.2, AND X.B.3.b**

**REQUEST FOR EXEMPTION FROM 10 CFR PART 52, APPENDIX E,
PARAGRAPHS X.A.1, X.A.2, AND X.B.3.b**

I. Proposed Exemption

10 CFR 52 Appendix E, Paragraphs X.A.1 and X.A.2 require applicants for a combined license (COL) referencing the General Electric – Hitachi (GEH) Economic Simplified Boiling Water Reactor (ESBWR) to maintain certain documents as follows:

- X.A.1

“The applicant for this appendix shall maintain a copy of the generic DCD [design control document]¹ that includes all generic changes it makes to Tier 1 and Tier 2, and the generic TS and other operational requirements. The applicant shall maintain sensitive unclassified non-safeguards information (including proprietary information) and safeguards information referenced in the generic DCD for the period that this appendix may be referenced, as specified in Section VII of this appendix.”

- X.A.2

“An applicant or licensee who references this appendix shall maintain the plant-specific DCD² to accurately reflect both generic changes to the generic DCD and plant-specific departures made under Section VIII of this appendix throughout the period of application and for the term of the license (including any period of renewal).”

10 CFR 52 Appendix E, Paragraphs X.B.1, X.B.2, and X.B.3.b require applicants for a COL referencing the ESBWR to submit reports and updates as follows:

- X.B.1

“An applicant or licensee who references this appendix shall submit a report to the NRC containing a brief description of any plant-specific departures from the DCD, including a summary of the evaluation of each. This report must be filed in accordance with the filing requirements applicable to reports in 10 CFR 52.3.”

This report is henceforth referred to as the “Departures Report”.

- X.B.2

“An applicant or licensee who references this appendix shall submit updates to its DCD, which reflect the generic changes to and plant-specific departures from the generic DCD made under Section VIII of this appendix. These updates must be filed under the filing requirements applicable to final safety analysis report updates in 10 CFR 52.3 and 50.71(e).”

¹ Defined in 10 CFR 52, Appendix E, Paragraph II.A

² Defined in 10 CFR 52, Appendix E, Paragraph II.C

This update is henceforth referred to as the “DCD Update Report”.

- X.B.3.b

“During the interval from the date of application for a license to the date the Commission makes its findings required by 10 CFR 52.103(g), the report³ must be submitted semi-annually. Updates to the plant-specific DCD⁴ must be submitted annually and may be submitted along with amendments to the application.”

Entergy requests exemption from the requirements of Paragraphs X.A.1, X.A.2, and X.B.3.b until December 31, 2015 or coincident with resuming the review of the RBS3 COL application, whichever comes first.

II. Background

By letter dated September 25, 2008 (ADAMS Accession No. ML082830022), Entergy submitted to the NRC a COL application, in accordance with 10 CFR Part 52, Subpart C, to construct and operate an ESBWR. This facility is to be located at Entergy’s River Bend site and be designated River Bend Station, Unit 3 (RBS3). The NRC docketed the application on December 4, 2008 (ADAMS Accession No. ML083370275).

By letter dated January 9, 2009 (ADAMS Accession No. ML090130174), Entergy requested the NRC suspend the review of the RBS3 COL application and related activities. As requested, the NRC suspended their review activities, as documented in a letter to Entergy dated January 12, 2009 (ADAMS Accession No. ML090080277). The RBS3 COL application remains docketed; however, Entergy has not requested the RBS3 COL application review be reactivated.

III. Exemption Requirements

Pursuant to 10 CFR 50.12(a)(1) and (2), the NRC 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

³ The Departures Report

⁴ The DCD Update Report

- (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

A. Authorized by Law

10 CFR 50.12 allows the NRC to grant exemptions from the requirements of Paragraphs X.A.1, X.A.2, and X.B.3.b without violating the Atomic Energy Act of 1954, as amended, or NRC regulations. This exemption would allow Entergy to suspend maintaining the Departures Report and the DCD Update Report and forego submitting these reports until December 31, 2015 or coincident with resuming the review of the RBS3 COL application, whichever comes first.

B. No Undue Risk to Public Health and Safety

The purposes of Paragraphs X.A.1, X.A.2, and X.B.3.b are to maintain reports pertaining to the ESBWR and plant-specific DCDs associated with a COL application current and to provide timely, current, comprehensive reports and updates 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 Departures Report and DCD Update Report, if provided, would not be reviewed by the NRC.

The requested exemption is solely administrative in nature in that it pertains to activities for which a license has not been granted; hence, there are no safety implications. Specifically, there are no new health or safety issues created and no increase in the probability of postulated accidents or their consequences associated with this exemption request. Therefore, there is no undue risk to public health and safety.

C. Consistent with Common Defense and Security

This exemption request has no relation to security issues. In addition, the request has no impact on the common defense and security.

D. Special Circumstances

Special circumstances are present.

Paragraphs X.A.1, X.A.2, and X.B.3.b, requiring maintenance of and periodic submittal of Departures Reports and DCD Update Reports, do not address, and do not appear to have contemplated, a situation in which: (1) the applicant suspended its pursuit of a COL; and (2) the NRC staff has suspended any and all review of the COL application. As such, maintaining and providing these reports for which NRC

review activities have been suspended would result in an undue hardship and unnecessary costs to Entergy.

As stated above, the purposes of Paragraphs X.A.1, X.A.2, and X.B.3.b are to maintain reports pertaining to the ESBWR and plant-specific DCDs associated with a COL application current and to provide timely, current, comprehensive reports and updates 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 Departures Report and DCD Update Report, if provided, would not be reviewed by the NRC. Therefore, maintaining and providing these reports would be of no value or serve the purpose of the regulation.

Entergy is requesting only temporary relief from Paragraphs X.A.1, X.A.2, and X.B.3.b and has made good faith efforts to comply with the regulation. Entergy will recommence maintaining the Departures Report and the DCD Update Report and provide them to the NRC by December 31, 2015 or coincident with resuming the review of the RBS3 COL application, whichever comes first. This action fulfills the purpose of Paragraphs X.A.1, X.A.2, and X.B.3.b 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, Entergy requests the NRC grant the exemption from 10 CFR 52 Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b until December 31, 2015 or coincident with resuming the review of the RBS3 COL application, whichever comes first.