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ATTN: Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

**BELL BEND NUCLEAR POWER PLANT
REQUEST FOR EXEMPTION FROM
10 CFR § 50.71(e)(3)(iii) FOR CY 2015
BNP-2015-056 Docket No. 52-039**

In accordance with the provisions of 10 CFR § 50.12, Bell Bend, LLC hereby requests an exemption from the requirements of 10 CFR § 50.71(e)(3)(iii) as applicable to the Bell Bend Nuclear Power Plant (BBNPP) Combined License Application (COLA) Part 2 Final Safety Analysis Report (FSAR).

Specifically, an exemption is requested from the requirement to submit the calendar year 2015 update to the BBNPP FSAR given that the safety review has been put on hold until further progress is made on the NRC review of the U.S. EPR Design Certification. If approved, the deadline for the next FSAR update would be December 31, 2016.

The Enclosure to this letter provides the basis for this exemption request.

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

Respectfully,

A handwritten signature in black ink, appearing to read "Rocco R. Sgarro".

Rocco R. Sgarro

RRS/kw

Enclosure: As Stated.

D102
NRD

cc: w/ Enclosure

Ms. Patricia Vokoun, Project Manager
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w/o 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 application (COLA) until the U.S. Nuclear Regulatory Commission (NRC, or Commission) makes a finding under 10 CFR § 50.103(g) pertaining to facility operation, submit an annual update to the COLA Part 2 Final Safety Analysis Report (FSAR).

Bell Bend, LLC ("the Applicant") is requesting an exemption from the requirements of 10 CFR § 50.71 (e)(3)(iii) to submit the calendar year 2015 update to the Bell Bend Nuclear Power Plant (BBNPP) FSAR. If approved, the deadline for the next required FSAR update would be December 31, 2016.

In summary, the requested exemption is a schedule change from the requirements of 10 CFR § 50.71(e)(3)(iii) that would recognize the Applicant's January 9, 2014 request¹ "...that the NRC withhold further review of the BBNPP COLA Part 2 (FSAR) until further notice." This request was based on the Applicant's decision to monitor progress on the DC application before expending further significant resources on the safety review. Since that time, AREVA has requested that the NRC suspend their review of the DC application². Given the resulting lack of substantive change activity on the FSAR over this period, the Applicant believes that the request for exemption from the annual update for calendar year 2015 is appropriate.

Background

On October 10, 2008, PPL (at that time; now Bell Bend, LLC) submitted to the NRC a COLA, 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, Pennsylvania³. The NRC Staff accepted and docketed the application on December 19, 2008⁴.

PPL (at that time; now Bell Bend, LLC) submitted the most recent revision of the COLA FSAR, Revision 4, pursuant to 10 CFR § 50.71 (e)(3)(iii) on April 12, 2013⁵, consistent with the NRC approved exemption⁶ for late filing of the calendar year 2012 FSAR update.

On October 30, 2014, the NRC granted a request for exemption from 10 CFR § 50.71(e)(3)(iii) for calendar year 2014⁷ under similar circumstances.

¹ R. R. Sgarro to U.S. NRC Document Control Desk, "Interim Safety Review Guidance," BNP-2014-005, dated January 9, 2014 (ML 14030A074).

² P. Salas (AREVA) to U.S. NRC Document Control Desk, "Request to Suspend Review of U.S. EPR Design Certification Application," dated February 25, 2015 (ML 15104A721).

³ 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 (ML 082880580).

⁴ U.S. NRC 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 (ML 083510149).

⁵ R. R. Sgarro to U.S. NRC Document Control Desk, "Submittal of Bell Bend COLA, Revision 4," dated April 12, 2013 (ML 13120A374).

⁶ J. Segala (NRC) to M.J. Caverly (PPL), "Bell Bend Nuclear Power Plant Combined License Application- Exemption from the Requirements of Title 10 of the Code of Federal Regulations Section 50.71 (e)(3)(iii)," dated December 18, 2013 (ML 13318A123).

⁷ M. Takacs (NRC) to R. R. Sgarro (PPL), "Bell Bend Nuclear Power Plant Combined License Application Exemption from the Requirements of Title 10 of the Code of Federal Regulations Section 50.71(e)(3)(iii)," dated October 30, 2014 (ML 14288A478).

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,
- (2) Special circumstances are present.

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

- (a)(2)(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
- (a)(2)(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 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 one-time schedule exemption that will only provide temporary relief from the requirements of 10 CFR § 50.71 (e)(3)(iii). Therefore, the exemption is authorized by law.

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 updating 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. 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. Since a license has not been issued, the probability of postulated accidents is not increased. Additionally, given the administrative nature of the request, no new accident precursors are created by the exemption, therefore neither the probability nor the consequences of postulated accidents are increased. For these reasons, there is no undue risk to public health and safety.

C. *Consistent with Common Defense and Security*

The proposed exemption involves a schedule change for a COLA, and as such has no security implications. Accordingly, the common defense and security will not be impacted should this exemption be granted.

D. *Special Circumstances*

Special circumstances in accordance with 10 CFR § 50.12 (a)(2)(ii) are present because the "[a]pplication 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."

The underlying purpose of 10 CFR § 50.71 (e)(3)(iii) is to provide for timely, comprehensive updating 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. The rule targeted those applications that are being actively reviewed by the NRC.

In response to the Applicant's letter¹ requesting that the Bell Bend COLA safety review be withheld until further notice, the NRC responded in separate correspondence⁸ that they "...will withhold the safety review portion of the COLA until such time that [the Applicant] formally requests that the NRC resume its review." The NRC letter also states that "...pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 52.3(b)(6) and 10 CFR 50.71(e), [the Applicant] will be required to submit to the NRC updates to the Final Safety Analysis Report annually." This exemption request is proposed to address the need for the FSAR update for calendar year 2015. The NRC previously granted a similar request for calendar year 2014⁷.

References 1 and 4 establish a special circumstance that supports the exemption request, in that the staff review has been temporarily put on hold, and therefore the update is not necessary to achieve the underlying purpose of the rule at this time.

Special circumstances in accordance with 10 CFR § 50.12 (a)(2)(v) are present because "[t]he 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."

The Applicant is seeking temporary relief until December 31, 2016 to file the next update to the BBNPP COLA Part 2 FSAR. The Applicant has made good faith efforts to comply with the rule based on its previous revisions, or requests for exemptions when justified.

Environmental Assessment

The proposed action would exempt Bell Bend from the requirement of 10 CFR 50.71(e)(3)(iii), which specifies that an applicant for a combined license must submit an update to its final safety analysis report annually. The proposed exemption would allow Bell Bend to submit its next FSAR update in 2016. The exemption is needed to avoid the undue burden of preparing an

⁸ A. Bradford (NRC) to R. R. Sgarro (PPL), "Bell Bend Nuclear Power Plant Combined License Application - Request to Withhold Safety Review," dated August 12, 2014 (ML 14210A588).

FSAR update when the NRC review of the FSAR and the EPR design certification application on which it is based have both been suspended.

The proposed action will not result in any impact on the environment. The exemption would only grant a temporary exemption from a requirement to update an application not yet granted. Consequently, the exemption would not authorize any activity that could have an impact on the environment.

The only alternative to the proposed action would be not issuing the exemption (i.e., the "no action" alternative). This alternative would not accomplish the purpose of the proposed action (to eliminate the submittal of FSAR revisions with little or no new information - and of no value to the NRC Staff - and to reduce the burden on the applicant). In addition, the "no action" alternative would not have a different environmental impact. Both the proposed action and the "no action" alternative would have no impact on the environment.

Conclusion

Based on the above, the Commission should exempt the Applicant from the requirement to submit an annual update to the BBNPP COLA Part 2 FSAR in calendar year 2015.