



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 14, 2018

Mr. Rick Easterling, Vice President
Technical Services and Licensing
Westinghouse Electric Company
Nuclear Power Plants
1000 Westinghouse Drive
Cranberry Township, PA 16066

SUBJECT: AP1000 REACTOR DESIGN CERTIFICATION—GRANTING IN PART AND
DENIAL IN PART OF REQUEST FOR EXEMPTIONS RELATED TO THE
DURATION OF THE AP1000 DESIGN CERTIFICATION

Dear Mr. Easterling:

By letter dated December 2, 2016, Westinghouse Electric Company (Westinghouse) requested three exemptions relating to renewal of the AP1000 Design Certification (DC), which will expire on February 27, 2021, under current regulations. The requested exemptions would extend the period for which the AP1000 DC is able to be referenced by a combined license (COL) applicant from 15 to 20 years, resulting in a new expiration date of February 27, 2026. The proposed exemptions would also defer by 5 years the time period during which Westinghouse could submit and the staff could accept Westinghouse's renewal application. Under the requested exemption, this time period would occur between February 27, 2023, and February 27, 2025. The purpose of this letter is to provide the results of the U.S. Nuclear Regulatory Commission staff's review of these exemption requests. An enclosure to this letter presents a summary of the staff's review.

The staff is granting to Westinghouse an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) 52.57(a) to defer by 5 years the time period during which Westinghouse could submit and the staff could accept Westinghouse's renewal application for the AP1000 DC. The regulations in 10 CFR 50.12, "Specific exemptions," state that the Commission will only consider granting an exemption in cases when special circumstances are present. The Westinghouse request asserted that special circumstances allowed in 10 CFR 50.12(a)(2)(ii) and (iii) are present. The staff's review concluded that special circumstances set forth in 10 CFR 50.12(a)(2)(ii) are present in this instance in that ". . . 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." Therefore, the Commission may grant this exemption.

As described in the enclosure, the staff is denying the exemption requests from 10 CFR 52.55(a) and 10 CFR Part 52, Appendix D, Part VII, "Duration of this Appendix," that would have generically extended the period during which the current AP1000 DC could be referenced by future COL applicants. The 15-year duration of a DC established by 10 CFR 52.55(a) and 10 CFR Part 52, Appendix D, Part VII, address when a COL applicant

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may reference the AP1000 design. These regulations pertain to future COL applicants' ability to reference the AP1000 design certified by NRC rulemaking, and exemptions from them require consideration of the particular special circumstances of the "interested person" (i.e., the COL applicant), pursuant to the provisions of 10 CFR 50.12(a). Special circumstances related to the ability to reference the DC do not pertain to Westinghouse, as it is not a prospective COL applicant. Such exemptions would need to be requested by and granted to a specific COL applicant based on a demonstration of its particular special circumstances.

If you have any questions, please contact Mr. Donald Habib of my staff at 301-415-1035.

Sincerely,

/RA/

Francis M. Akstulewicz, Director
Division of New Reactor Licensing
Office of New Reactors

Docket No. 52-006

Enclosure:

Staff Evaluation Westinghouse Request for Exemptions
Related to the Duration of the AP1000 Design Certification

cc: See next page

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(Revised 12/20/2017)

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