



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

SAFETY EVALUATION REPORT

Docket No. 72-03
Duke Energy Progress, LLC
H.B. Robinson Steam Electric Plant, Unit No. 2
Independent Spent Fuel Storage Installation
Renewed Materials License No. SNM-2502
Amendment No. 3

Summary

This safety evaluation report (SER) documents the review and evaluation of an amendment request for Special Nuclear Materials License No. SNM-2502 for the H.B. Robinson Steam Electric Plant, Unit No. 2 (HBRSEP2) Independent Spent Fuel Storage Installation (ISFSI). By application dated July 10, 2017, Duke Energy Progress, LLC [limited liability company] submitted a request for a license amendment to the U.S. Nuclear Regulatory Commission (NRC) in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 72.56, "Application for amendment of license." The requested amendment requested to change the corporate name of the licensee from Duke Energy Progress, Inc. to Duke Energy Progress, LLC.

The NRC staff has reviewed the application, including the justifications for the proposed changes. As discussed below, based on the statements and representations in the application, the staff finds that the proposed changes will not have an adverse effect on public health and safety, or the environment, and finds that the proposed changes are acceptable.

Discussion

Pursuant to 10 CFR 72.50, "Transfer of license,"

- (a) No license or any part included in a license issued under this part for an ISFSI or [monitored retrievable storage installation] shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing.

Effective on or about August 1, 2015, Duke Energy Progress, Inc. (Duke) was converted from a corporation organized under the laws of the state of North Carolina to an LLC organized under the laws of the state of North Carolina.

To determine whether a change in corporate form constitutes a license transfer, the NRC looks to the law of the state in which a business entity is chartered to determine if the entity's change in corporate form requires the dissolution of the original entity, or if the conversion is simply administrative in nature. In its request, Duke cites North Carolina General Statutes, Chapter 55: North Carolina Business Corporation Act, Section 55-11A-13, to categorize the conversion in corporate form of Duke to Duke Energy Progress, LLC, as

the equivalent of a name change and, therefore, administrative in nature. As stated, in relevant part, in § 55-11A-13, *Effects of conversion*:

“The converting domestic corporation ceases its prior form of organization and continues in existence as the resulting business entity;
. . . The cessation of the existence of the converting domestic corporation in its form of organization as a domestic corporation in the conversion shall not constitute a dissolution or termination of the converting domestic corporation.”

In addition, Section 57D-9-23 of the North Carolina Limited Liability Company Act states: “The converting entity ceases its prior form of organization and continues in existence as the surviving entity. The title to all real estate and other property owned by the converting entity continues to be vested in the surviving entity without reversion or impairment. All liabilities of the converting entity continue as liabilities of the surviving entity.”

The NRC staff finds that since the relevant state law allows the conversion of Duke Energy Progress, Inc. to Duke Energy Progress, LLC without requiring dissolution, this change in corporate form is administrative in nature and is not an NRC license transfer under 10 CFR 72.50, "Transfer of license."

In support of the requested license amendments, Duke stated in its request that: "Duke Energy Progress, LLC, will remain subject to cost-of-service ratemaking. The conversion of Duke Energy Progress, Inc., does not affect the financial qualifications of the NRC licensees. No physical changes to the ISFSI will be made as a result of the licensee name conversion. Nor will any technical changes be made to the operating procedures or the way the ISFSI is managed as a result of the licensee name conversion."

The NRC staff finds that the proposed change in corporate form is administrative in nature and that the proposed changes will not affect the design, operation, maintenance, or surveillance of the ISFSI. Additionally, since the change in corporate form is subject to the laws of the state of North Carolina, and North Carolina does not require dissolution of Duke Energy Progress, Inc. or the creation of a new business entity, the NRC staff concludes that the conversion did not involve any direct or indirect transfer of control of any license, which would require NRC approval pursuant to 10 CFR 72.50. Therefore, the change in Duke's corporate form is acceptable.

State Consultation

In accordance with the Commission's regulations, the state of North Carolina and the state of South Carolina officials were notified of the proposed issuance of the amendments. The State officials had no comments or questions regarding the proposed name change.

Environmental Review

The staff has determined that the subject amendment does not involve any physical changes to the facility or its operation as previously evaluated. In addition, the staff has determined that the criteria for categorical exclusion of 10 CFR 51.22(c)(11) have been met for this amendment as 1) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (2) there is no significant increase in individual or cumulative occupational radiation exposure; (3) there is no significant construction impact; (4)

and there is no significant increase in the potential for or consequences from radiological accidents. Therefore, preparation of an environmental assessment is not required.

Requirements for Noticing Proposed Action

The staff considered the amendment's potential impact on the health and safety of the public. The staff finds that this license amendment does not involve any changes in the scope or type of operations presently authorized by the license. The staff has determined that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected.

Accordingly, pursuant to 10 CFR 72.46(b)(2), immediate action on this amendment may be taken, and a notice of the proposed action or a notice of opportunity for hearing is not warranted.

Conclusion

The NRC staff concludes that the proposed change to the HBRSEP2 ISFSI License Technical Specifications does not alter the prior staff conclusions and findings made in support of the granting of the license, and will not impact the public health and safety. Based on the information provided in the application, the staff concludes that SNM-2502, as amended, meets the requirements of 10 CFR Part 72.

Issued with Renewed Materials License No. SNM-2502, Amendment No. 3, on: XXXXXXXX