

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
PUBLIC SERVICE COMPANY
(Fort St. Vrain Nuclear Generating
Station)

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} Docket No. 50-267

EXEMPTION

I.

Public Service Company of Colorado (PSC or the licensee) is the holder of Facility Operating License No. DPR-34 which authorizes operation of the Fort St. Vrain Nuclear Generating Station (FSV). The facility is a high temperature gas cooled reactor located at the licensee's site in Weld County, Colorado. FSV was shutdown on August 18, 1989. PSC began defueling FSV on November 27, 1989 and completed the removal of one-third of the core (the maximum capacity of its on site storage wells) on February 7, 1990. By Confirmatory Order dated May 7, 1990, License No. DPR-34 was revised to prohibit taking the FSV reactor to criticality or operating FSV at any power level. This license states, among other things, that it is subject to all rules, regulations and orders of the Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II.

Pursuant to 10 CFR 50.54(w), each commercial power reactor licensee shall, by June 29, 1982, take reasonable steps to obtain onsite property damage insurance available at reasonable costs and on reasonable terms from private sources or to demonstrate to the satisfaction of the Commission that it possesses an equivalent amount of protection covering the facility, provided,

among other things, that this insurance must have a minimum coverage limit no less than the combined total of (i) that offered by either American-Nuclear Insurers (ANI) and Mutual Atomic Energy Reinsurance Pool (MAERP) jointly or Nuclear Mutual Limited (NML); plus (ii) that offered by Nuclear Electric Insurance Limited (NEIL), the Edison Electric Institute (EEI), ANI and MAERP jointly, or NML as excess property insurance. On August 5, 1987, the Commission amended this regulation to require a minimum coverage limit for the reactor station site of either \$1.06 billion or whatever amount of insurance is generally available from private sources, whichever is less (52 FR 28963).

III.

The licensee, prior to this proposed exemption, was required to carry the full amount of onsite primary property damage insurance coverage (\$1.06 billion). By letter dated August 8, 1990, the licensee requested an exemption to reduce the amount of property damage insurance from the full amount of \$1.06 billion to \$169 million. The licensee states that the requirement to fully comply with the regulation represents an undue financial hardship and burden, and that maintaining a lower level of primary property damage insurance will reduce the capital cost of FSV by \$1 million a year. By letter dated August 8, 1990, the licensee provided its justification that \$169 million of primary property damage insurance provides an adequate level of coverage to stabilize, clean up or decontaminate the FSV plant based on the limited and much less severe accidents that could occur given that FSV is shutdown and in a partially defueled condition.

The NRC may grant exemption from the requirements of the regulations which, pursuant to 10 CFR 50.12(a) are (1) authorized by law, will not present

an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) present special circumstances. Pursuant to 10 CFR 50.12(a)(2)(ii) special circumstances exist when compliance with a rule would not serve the purpose of or is not necessary to achieve the underlying purpose of the rule. Pursuant to 10 CFR 50.12(a)(2)(iii) special circumstances exist if compliance would result in undue hardship or costs in excess of those contemplated when the regulation was adopted, or costs that are significantly in excess of those incurred by others similarly situated.

By letter dated August 8, 1990, the licensee requested an exemption from one of the requirements of 10 CFR 50.54(w)(1). The licensee has requested that it not be required to carry the full amount (\$1.06 billion) of the required onsite property insurance.

PSC contends that exemption from the requirement for the full amount of onsite damage insurance while FSV is in a permanently shutdown and partially defueled condition is justified by the following:

1. Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve its underlying purpose, 10 CFR 50.12(a)(2)(ii), and

2. 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, 10 CFR 50.12(a)(2)(iii).

PSC has requested that in lieu of the current required coverage, that it be allowed to carry \$169 million of onsite insurance. PSC calculated this amount based on the results and methods from NUREG/CR-2601 used to derive the current \$1.06 billion required amount. The requirement for \$1.06 billion was

established to cover accidents at large light water reactors operating at full power. Because FSV is shut down and the reactor is in partially defueled condition and physical and administrative measures have been implemented to prevent FSV from achieving criticality, the possibility of a major credible accident with potential for significant property damage no longer exists. PSC concludes that the proposed insurance limit of \$169 million is sufficient to cover stabilization and decontamination expenses for any remaining credible accident and thus meets the underlying purpose of the rule.

IV.

The staff has reviewed the licensee's request for exemption and finds that requiring the licensee to carry the full amount of onsite property damage insurance coverage, \$1.06 billion, as required by 10 CFR 50.54(w)(1), would result in undue hardship, is not necessary to achieve the underlying purpose of the rule, and that onsite property damage insurance coverage of \$169 million is sufficient to satisfy the underlying purpose of the rule.

The staff also concludes that issuance of this exemption will have no significant effect on the safety of the public or the plant. Further, the licensee has shown special circumstances as described in the staff's supporting safety evaluation for this exemption.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the environment.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12(a)(1) the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. As indicated above, compliance with 10 CFR 50.54(w)(1)

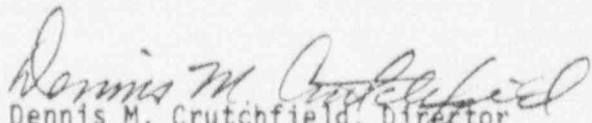
would result in undue costs considering the current operational restrictions placed on the FSV facility, and costs that are significantly in excess of the cost incurred for similar insurance by the other facilities in similar circumstances. Thus, special circumstances as described in both 10 CFR 50.12(a)(2)(ii) and (iii) exist. Consequently, the exemption falls within special circumstances determined by the Commission to be sufficient to support the exemption. Therefore, the Commission hereby approves the following exemption:

The licensee is exempt from the requirement to carry onsite property damage insurance coverage in the full amount called for by 10 CFR 50.54(w)(1) provided that (1) the licensee maintain such onsite property damage insurance in an amount of not less than \$169 million; and (2) the reactor remains in its current shutdown status, at least partially defueled, with physical and administrative measures implemented to prevent the reactor from reaching criticality.

The applicant's letter dated August 8, 1990, and the NRC staff's letter and Safety Evaluation related to this action are available for public inspection at the Commission's Public Document Room, 2120 L Street, N.W., Washington, D.C. 20555, and the Greeley Public Library, City Complex Building, Greeley, Colorado 80631.

The exemption is effective 10 working days from the date of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION


Dennis M. Crutchfield, Director
Division of Advanced Reactors
and Special Projects
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland
this 18 day of January 1991