



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

EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
BACKFIT CLAIM, UNRESOLVED SAFETY ISSUE A-46,
MAINE YANKEE NUCLEAR POWER STATION
DOCKET NO. 50-309

1.0 INTRODUCTION

In March 1986, Maine Yankee Atomic Power Company (MYAPCo), the licensee for the Maine Yankee Nuclear Power Station (MYNPS or Maine Yankee), volunteered to participate in the NRC-sponsored Seismic Design Margins Program (SDMP). Its participation in the SDMP concluded in March 1987 with the issuing of the Safety Evaluation Report (SER) (Reference (a)). In February 1987, the Nuclear Regulatory Commission (NRC) issued Reference (b), "Verification of Seismic Adequacy of Mechanical and Electrical Equipment in Operating Reactors, Unresolved Safety Issue (USI) A-46 (Generic Letter 87-02)," which requires some operating nuclear power plants to review certain equipment for seismic adequacy. By letter dated April 10, 1987, (within 60 days after the receipt of the GL 87-02 as required by the resolution of USI A-46), the Seismic Qualification Utility Group (SQUG), on behalf of its membership, requested relief from the 60-day response requirement. The request was approved by the NRC in a letter to the SQUG dated April 28, 1987. By letter dated June 30, 1987, (Reference (c)), MYAPCo expressed its belief that its successful completion of the SDMP, and receipt of a favorable SER, provided adequate resolution of USI A-46. On April 23, 1990, the NRC forwarded the Reference (d) letter informing MYAPCo that, "...we are not prepared to conclude that your satisfactory completion of the SDMP satisfied all the issues associated with USI A-46..."

By letter dated January 4, 1991, (Reference (e)), MYAPCo restated its belief that its successful completion of the SDMP provided adequate resolution of the technical aspects of USI A-46 issues and requested that any additional requirements imposed on Maine Yankee related to USI A-46 be considered a backfit pursuant to 10 CFR 50.109. MYAPCo also stated that when it voluntarily agreed to participate in the SDMP, it was "...with the understanding that satisfactory resolution under the SDMP would resolve the various seismic issues confronting Maine Yankee (which included A-46)." MYAPCo quotes the SDMP SER which states, "...all the issues associated with the design basis...[(because of the occurrence of April 17, 1979, and January 9, 1982, earthquakes)] for the MYNPS and hence the seismic design adequacy of the plant are considered resolved."

2.0 DISCUSSION AND EVALUATION

On February 19, 1987, the staff issued GL 87-02 as the means by which USI A-46 would be resolved. The Generic Letter asked all licensees to provide a schedule for implementation of the seismic verification program at their facility within 60 days of receipt of the Generic Letter [around May 1, 1987]. On April 10, 1987, the SQUG requested an extension of the response due date on behalf of its membership. The staff approved an extension to December 1, 1987, in a letter to the SQUG dated April 28, 1987. Within the extended response due date for SQUG members, MYAPCo responded to GL 87-02 in a June 30, 1987, letter, stating that Maine Yankee believed that their participation in the NRC-sponsored SDMP and receipt of a favorable Safety Evaluation Report provided adequate resolution of USI A-46 for the plant. MYAPCo neither met nor requested an extension to the response date requested by the Generic Letter. The staff's April 28, 1987, letter to the SQUG included Maine Yankee as a plant that would be resolving USI A-46 from a generic participation standpoint, rather than plant-specifically. As such, the staff has always considered Maine Yankee to be a plant that was addressing USI A-46 via the SQUG.

The record is not clear as to whether MYAPCo's position is to resolve USI A-46 on a plant-specific basis or on a generic participation basis. A listing of the SQUG membership dated April 4, 1986, that was provided to the staff by the SQUG, suggests that Maine Yankee will resolve USI A-46 via the SQUG by listing MYAPCo as a member. However, MYAPCo's June 30, 1987, letter implies that USI A-46 was completely resolved on a plant-specific basis as a result of their participation in the SDMP. The licensee's letter dated January 4, 1991, appears to partially contradict the June 30, 1987, letter by implying that Maine Yankee intends to resolve USI A-46 on a plant-specific approach through the application of the NRC-sponsored Maine Yankee SDMP, rather than on a generic participation basis with the SQUG (excepting only the issue of relay chatter). The letter reiterates MYAPCo's belief at that time, that their voluntary participation in the NRC's SDMP resolved all seismic issues that confronted Maine Yankee, including the resolution of USI A-46. Based on this belief, the licensee considered imposition of any additional requirements related to USI A-46 to be a backfit, and requested NRC review pursuant to 10 CFR 50.109 prior to the imposition of any such requirements.

Concurrent with the issuance of GL 87-02, NUREG-1211, "Regulatory Analysis for Resolution of Unresolved Safety Issue A-46, Seismic Qualification of Equipment in Operating Plants," was published. NUREG-1211 includes the backfit analysis required under 10 CFR 50.109 and provides the basis for the imposition of the staff's requirements. Maine Yankee was included in the list of plants that were to be reviewed against the USI A-46 requirements.

The staff is receptive to review the resolution of USI A-46 for Maine Yankee on a plant-specific basis. However, if MYAPCo's June 30, 1987, response to GL 87-02 was intended to use the SDMP as the basis for having resolved and completed USI A-46, the licensee did not adequately address Item 5, "Provisions for Resolution for Individual Utilities" of GL 87-02 in the manner specified by the Generic Letter, to permit the staff to assess the implementation of Maine Yankee's program. The licensee did not

submit the detailed review procedures, inspection report, nor the final report as prescribed in Item 5. Therefore, we ask that MYAPCo provide the information that is requested by the Generic Letter. The staff appreciates the licensee's participation in, and efforts related to, the SDMP. The staff also recognizes that much of the effort directed towards the completion of the Maine Yankee SDMP may be adequate to resolve some of the USI A-46 issues. As such, MYAPCo may use information, findings, or results related to the SDMP as input to their response to GL 87-02.

The staff has not yet reviewed or approved the resolution of USI A-46 for Maine Yankee either on a plant-specific basis or on a generic participation basis.

3.0 CONCLUSION

The staff concludes that a regulatory analysis has already been performed related to the resolution of USI A-46 as documented in NUPEG-1211, and that analysis remains valid for Maine Yankee. The staff has not yet reviewed or approved the resolution of USI A-46 for Maine Yankee, either on a plant-specific basis or on a generic participation basis. When the staff reviews Maine Yankee's program, it will be evaluated against USI A-46 criteria. It is, therefore, premature for the staff to address the question of what additional requirements, if any, must be reviewed as a backfit pursuant to 10 CFR 50.109 at this time.

Based upon the record of available correspondence, it is not explicitly clear whether the licensee intends to resolve USI A-46 for Maine Yankee on a plant-specific basis, on a generic participation basis, or a combination of the two. Whichever means is chosen, the licensee must inform the staff of the selected alternative(s) and the topics or areas to which they apply, and provide the requested information described in the appropriate sections of Enclosure 1 to GL 87-02. It is noted that GL 87-02 does not identify the "combination of the two" as an approach to resolve USI A-46. Furthermore, if it is MYAPCo's intent to use the Maine Yankee SDMP as its resolution of USI A-46, we conclude that the licensee has not adequately responded to GL 87-02 in the manner specified by the Generic Letter. The Generic Letter makes it incumbent upon the licensee to specifically address the means by which USI A-46 is or will be resolved for their facility (e.g., describe procedures, criteria, certification of inspection, modifications, provide an inspection report to the staff, provide a final report to the staff). Participation in, and completion of, the SDMP does not relieve MYAPCo from this responsibility.

If the licensee's position is that the resolution of USI A-46 as implemented by GL 87-02 is not applicable to Maine Yankee because of their participation in the SDMP, and therefore considers the staff's imposition of requirements related to USI A-46 upon Maine Yankee as an unjustified backfit (a backfit for which a generic regulatory analysis has been approved for implementation), then the licensee must seek relief from the requirement to resolve USI A-46 as implemented by GL 87-02, by appealing the validity of the generic regulatory analysis as it applies to Maine Yankee.

4.0 REFERENCES

- (a) Safety Evaluation Report for Maine Yankee Atomic Power Company Seismic Margin Program, March 26, 1987.
- (b) Letter, Harold R. Denton, NRC, (Generic Letter 87-02), February 19, 1987.
- (c) Letter, G. D. Whittier, Maine Yankee Atomic Power Company, to Dr. Thomas E. Murley, NRC, June 30, 1987.
- (d) Letter, Eric Leeds, NRC, to C. D. Frizzle, Maine Yankee Atomic Power Company, April 23, 1990.
- (e) Letter, S. E. Nichols, Maine Yankee Atomic Power Company, to NRC, January 4, 1991.