

NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50-423A

NORTHEAST NUCLEAR ENERGY COMPANY, ET AL.

MILLSTONE NUCLEAR POWER STATION, UNIT 3

PROPOSED OWNERSHIP TRANSFER

NOTICE OF NO SIGNIFICANT ANTITRUST CHANGES

AND TIME FOR FILING REQUESTS FOR REEVALUATION

The Director of the Office of Nuclear Reactor Regulation has made a finding in accordance with section 105c(2) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2135, that no significant (antitrust) changes in the licensees' activities or proposed activities have occurred as a result of the proposed change in ownership of Unit 3 of the Millstone Nuclear Power Station (Millstone 3) detailed in the licensee's amendment application dated January 23, 1991. The finding is as follows:

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides that an application for a license to operate a utilization facility for which a construction permit was issued under section 103 shall not undergo an antitrust review unless the Commission determines that such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous antitrust review by the Attorney General and the Commission in connection with the construction permit for the

facility. The Commission has delegated the authority to make the "significant change" determination to the Director, Office of Nuclear Reactor Regulation.

By application dated January 23, 1991, the Northeast Nuclear Energy Company (NNECO or licensee), pursuant to 10 CFR 50.80, requested the transfer of the 2.8475 percent ownership interest of Public Service Company of New Hampshire (PSNH) in the Millstone Nuclear Power Station, Unit 3 (Millstone 3) to a newly formed wholly owned subsidiary of Northeast Utilities (NU). This newly formed subsidiary will also be called Public Service Company of New Hampshire (hereinafter, reorganized PSNH). Millstone 3 underwent antitrust review at the construction permit stage in 1973 and again in 1977 with the addition of new owners in the facility. The operating license antitrust review of Millstone 3 was completed in 1985. The staffs of the Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation and the Office of the General Counsel, hereinafter referred to as the "staff", have jointly concluded, after consultation with the Department of Justice, that the proposed change in ownership is not a significant change under the criteria discussed by the Commission in its *Summer* decisions (CLI-80-28 and CLI-81-14).

On May 13, 1991, the staff published in the Federal Register (56 Fed. Reg. 22024) receipt of the licensee's request to

transfer its 2.8475 percent ownership interest in Millstone 3 to reorganized PSNH. This amendment request is directly related to the proposed merger between Northeast Utilities and the Public Service Company of New Hampshire. The notice indicated the reason for the transfer, stated that there were no anticipated significant safety hazards as a result of the proposed transfer and provided an opportunity for public comment on any antitrust issues related to the proposed transfer. No comments were received.

The staff reviewed the proposed transfer of PSNH's ownership in the Millstone 3 facility to a wholly owned subsidiary of NU for significant changes since the last antitrust review of Millstone 3, using the criteria discussed by the Commission in its *Summer* decisions (CLI-80-28 and CLI-81-14). The staff believes that the record developed to date in the proceeding at the Federal Energy Regulatory Commission (FERC) involving the proposed NU/PSNH merger adequately portrays the competitive situation(s) in the markets served by the Millstone 3 generating facility and that any anticompetitive aspects of the proposed changes have been adequately addressed in the FERC proceeding. Moreover, merger conditions designed to mitigate possible anticompetitive effects of the proposed merger have been developed in the FERC proceeding. The staff further believes that the FERC proceeding addressed the issue of adequately protecting the interests of competing power

systems and the competitive process in the area served by the Millstone 3 facility such that the changes will not have implications that warrant a Commission remedy. In reaching this conclusion, the staff considered the structure of the electric utility industry in New England and adjacent areas and the events relevant to the Millstone 3 and Seabrook Nuclear Generating Station construction permit and operating license reviews. For these reasons, and after consultation with the Department of Justice, the staff recommends that a no affirmative "significant change" determination be made regarding the proposed change in ownership detailed in the licensee's amendment application dated January 23, 1991.

Based upon the staff analysis, it is my finding that there have been no "significant changes" in the licensees' activities or proposed activities since the completion of the previous antitrust review.

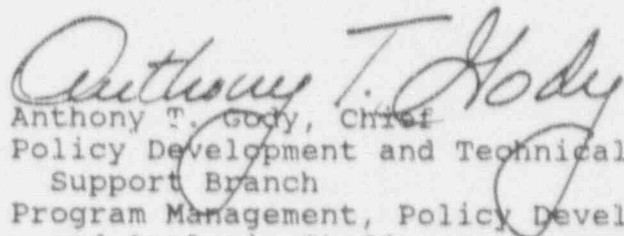
Signed on February 9, 1992 by Thomas E. Murley, Director, of the Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file, with full particulars, a request for reevaluation with the Director of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555 within 30 days of the initial publication of this notice in the Federal Register.

Requests for reevaluation of the no significant change determination shall be accepted after the date when the Director's finding becomes final, but before the issuance of the operating license amendment, only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

Dated at Rockville, Maryland, this 11th day of February 1992.

FOR THE NUCLEAR REGULATORY COMMISSION


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