



Public Service®

Public Service
Company of Colorado

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December 19, 1995
Fort St. Vrain
P-95114

U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D.C. 20555

Docket No. 50-267

SUBJECT: Planned Reorganization and Merger of Public Service
Company of Colorado with Southwestern Public Service
Company

REFERENCE: NRC letter dated March 7, 1989, NRC Information
Notice No. 89-25 (G-89111)

Gentlemen:

This letter is to obtain the NRC's consent regarding the planned reorganization and merger between Public Service Company of Colorado (PSCo), a Colorado corporation, and Southwestern Public Service Company (SPS), a New Mexico corporation, through the formation of a new holding company, named New Century Energies, Inc. (NCE), incorporated in Delaware. Following the reorganization and merger, which is expected to be completed in September of 1996, the two existing utilities will remain intact and continue to function as utility operating companies of NCE, retaining their existing titles. Upon completion of the reorganization and merger, NCE will become a registered holding company subject to regulation by the Securities & Exchange Commission (SEC) under the Public Utility Holding Company Act of 1935 and the SEC's regulations thereunder. The board of NCE will consist of eight current PSCo directors and six current directors from SPS. The corporate offices of NCE will be located in Denver, Colorado.

The purpose of this letter is to provide the Nuclear Regulatory Commission (NRC) with sufficient information regarding the planned reorganization and merger so the NRC can address requirements of Section 184 of the Atomic Energy Act of 1954, as amended, which states the following:

"Inalienability of Licenses. - No license granted hereunder and no right to utilize or produce special nuclear material granted hereby shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or

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indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of this Act, and shall give its consent in writing."

This requirement is reflected in 10 CFR Parts 30.34(b), 40.46, 70.36 and 72.50(a).

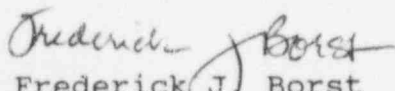
PSCo is the licensee for the shutdown Fort St. Vrain (FSV) nuclear power plant, Facility License DPR-34, and the FSV Independent Spent Fuel Storage Installation (ISFSI), Materials License No. SNM-2504. PSCo holds the Certificates of Compliance (C of C) for 2 spent fuel shipping packages, C of C No. 9253 for the TN-FSV casks, and C of C No. 6346 for the FSV-1 casks, along with Quality Assurance Program Approval For Radioactive Material Packages No. 0346. PSCo is dismantling its FSV nuclear power plant, with decommissioning expected to be complete in the latter part of 1996, when PSCo will request termination of its FSV plant license. SPS is not the licensee of any nuclear facilities.

The merger transaction does not involve the transfer of any of PSCo's nuclear licenses. Following the reorganization and merger, PSCo will continue to be the licensee of the FSV nuclear power plant, the FSV ISFSI, and the FSV-1 and TN-FSV spent fuel shipping packages. There are no plans to transfer any of these licenses to the parent (holding) company.

Details of the planned reorganization and merger are included in Attachment 1 to this letter. NRC Information Notice 89-25, the referenced letter, outlines information needed by the NRC in its assessment of any transfer of ownership or control of licensed activities. Attachment 1 to this letter provides the information requested by the Information Notice, specifically addressing each item.

PSCo requests NRC consent with the planned reorganization and merger by May 1, 1996. If you have any questions concerning this information, please contact Mr. M. H. Holmes at (303) 620-1701.

Sincerely,



Frederick J. Borst
Decommissioning Program Director

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FJB/JRJ
Attachments

cc: Mr. Michael F. Weber, Chief
Decommissioning and Regulatory
Issues Branch

Regional Administrator, Region IV

Mr. Robert M. Quillin, Director
Radiation Control Division
Colorado Department of Public Health and Environment

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Information Regarding the Planned Reorganization and Merger Between Public Service Company of Colorado (PSCo) and Southwestern Public Service Company (SPS) Through the Formation of a New Holding Company, Named New Century Energies, Inc. (NCE)

The following information addresses each item of the guidance provided in NRC Information Notice No. 89-25 (Reference 1), concerning notification to the Nuclear Regulatory Commission of ownership or control changes:

- a. The name of the organization, if changed. Provide the new name of the licensed organization and if there is no change, so state.

Response: During and following the reorganization and merger of PSCo and SPS through the formation of NCE, PSCo will continue to be the license holder of the licenses for the Fort St. Vrain (FSV) nuclear power plant (DPR No. 34), which is currently in the process of being decommissioned, the FSV Independent Spent Fuel Storage Installation (ISFSI - Materials License No. SNM-2504), the Certificates of Conformance for the spent fuel shipping package licenses (C of C No. 9253 for the TN-FSV casks, and C of C No. 6346 for the FSV-1 casks), and Quality Assurance Program Approval For Radioactive Material Packages No. 0346. PSCo will be a utility operating company subsidiary of NCE. Since PSCo's name will not change, the name of the licensed organization will not change as a result of the reorganization and merger on any of the nuclear licenses.

- b. Identification of any changes in personnel named in the license, including any required information on personnel qualifications.

Response: The nuclear licenses and C of Cs identified in the transmittal letter are issued to PSCo and do not identify specific personnel. As stated above, PSCo's title will not change as a result of the reorganization and merger. The organizations responsible for decommissioning of the FSV nuclear power plant and operations/maintenance of the ISFSI, defined in the Decommissioning Plan and ISFSI Safety Analysis Report (SAR) and reflected in the Decommissioning and ISFSI Technical Specifications, will not change as a result of the reorganization and merger.

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- c. An indication of whether the seller will remain in business without the license.

Response: The transaction of interest is a reorganization and merger of two existing companies, and not a sale. Both PSCo and SPS will remain in business as utility operating company subsidiaries of the new holding company, NCE. PSCo will retain the nuclear licenses referred to above. They will not be transferred to the new holding company.

- d. A complete, clear description of the transaction. The description should include any transfer of stocks or assets.

Response: SPS, a New Mexico corporation based in Amarillo, Texas, is a regional electric utility that provides retail electric service to approximately 368,000 customers in a 52,000 square-mile area comprising eastern and southeastern New Mexico, the South Plains and Panhandle of Texas, the Oklahoma Panhandle and southwestern Kansas. SPS's generating capacity is 52% coal-fueled and 48% from other fuels, primarily natural gas. SPS has 12 power plants throughout its system. By comparison, PSCo is an electric, natural gas and thermal energy utility, which provides services in a 32,000 square-mile area to approximately 1.1 million electrical and approximately 930,000 natural gas customers (many of which are dual customers) in Colorado and through its wholly-owned subsidiary Cheyenne Light, Fuel and Power Company (Cheyenne) in the Cheyenne, Wyoming area. Based in Denver, Colorado, PSCo operates eight steam-electric plants, nine hydroelectric facilities, a downtown Denver thermal energy service and an extensive natural gas system. PSCo's fuel for generation is approximately 99% coal and 1% natural gas.

On August 22, 1995, PSCo and SPS entered into an Agreement and Plan of Reorganization (Agreement) to engage in a business combination as peer firms in a merger of equals. This Agreement presents among other things, the representation and warranties of the two companies, the structure of the merger, and the required conditions precedent to closing.

Pursuant to the Agreement, PSCo and SPS have formed NCE, which upon consummation of the reorganization will serve as a publicly traded holding company under the Public Utility Holding Company Act. Upon receipt of all regulatory and stockholder approvals, discussed in greater detail below, NCE will form two wholly-owned subsidiaries, one a Colorado corporation (PSCo Merger Corp.) and the other a New Mexico corporation (SPS Merger Corp.).

PSCo Merger Corp. and SPS Merger Corp. will simultaneously merge with and into PSCo and SPS, respectively. PSCo and SPS will survive the reorganization and merger as wholly-owned separate operating utility subsidiaries of NCE. Cheyenne and Westgas Interstate, currently subsidiaries of PSCo, will also become separate utility subsidiaries of NCE. Additionally, two more subsidiaries will be created. A service company subsidiary, NCE Services Company, will be organized to provide services to the subsidiaries of NCE. Also, a subsidiary will be formed to hold shares of the existing non-utility subsidiaries of SPS and PSCo. Some subsidiaries of PSCo will be retained under PSCo because their primary business purpose is tied to PSCo, and also to take into account certain tax considerations. Figure 1 shows the projected holding company structure, following the reorganization and merger.

Under this holding company structure, PSCo, Cheyenne, and SPS will retain their corporate identities and will continue their independent operations. While NCE will have its corporate headquarters in Denver, PSCo and SPS will remain in their current locations, Denver and Amarillo, respectively. NCE Services Company will provide various services to PSCo and SPS and the other NCE subsidiaries. Through the formation and operation of NCE Services Company, various functions now performed separately by or on behalf of these companies will be consolidated to eliminate duplicative efforts. Any activities that NCE Services Company performs on behalf of PSCo, SPS, or any other subsidiary of NCE will be governed by service agreements. The SEC must approve the terms and conditions of any service agreements, including the cost allocation mechanisms contained therein. There are no plans for NCE Services Company to provide nuclear related services to PSCo.

The restructuring of PSCo and SPS will be effectuated by the conversion of stock. Common stock holders of each company will convert their respective shares of stock for rights to shares of common stock in NCE. Each share of PSCo stock will be converted to a right to receive one share of NCE stock, and each share of SPS stock will be converted to a right to receive 95% of one share of NCE stock. As a result of the exchange, the common stock holders of PSCo and SPS will then own all of the outstanding shares of the stock in NCE. The holders of preferred stock and debt of each company outstanding at the time of the closing of the reorganization and merger will be unaffected by the reorganization and merger. As of November 30, 1995, PSCo had 63.3 million common shares outstanding, and SPS had 40.9 million common shares outstanding. Based on the number of common shares outstanding as of this date, PSCo shareholders will own 62.0% of the common equity of the new holding company, while SPS shareholders will own 38.0%.

After the exchange of shares occurs, the existing common stock of

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PSCo and SPS will be cancelled. New common stock of PSCo and SPS will be issued to NCE.

The companies expect to save approximately \$770 million in the first 10 years after the reorganization and merger are completed. Based on fiscal 1994 results, the new holding company will have combined annual revenues of approximately \$3 billion and total assets of approximately \$6 billion.

The reorganization and merger or associated activities are subject to approval or regulatory review by numerous agencies, including the Federal Energy Regulatory Commission, the Securities and Exchange Commission, the Federal Trade Commission, the Nuclear Regulatory Commission, the Department of Justice, and state regulatory agencies in Texas, Colorado, New Mexico, Wyoming and Kansas.

- e. An indication of any planned changes in organization, location, facilities, equipment, procedures, or personnel. If such changes are to be made, they should be fully described.

Response: No such changes are planned to be made to the PSCo nuclear organization as a result of the transaction between PSCo and SPS.

- f. An indication of any changes in the use, possession, or storage of the licensed materials. If such changes are to be made, they should be described.

Response: No such changes will be made as a result of the transaction between PSCo and SPS.

- g. An indication of whether all surveillance items and records, including radioactive material inventory and accountability requirements, will be current at the time of transfer. A description of the status of all surveillance requirements and records, e.g., calibrations, leak tests, surveys, etc. should be provided.

Response: All surveillance items and records, including radioactive material inventory and accountability requirements, are presently current and will be current at the time of the planned transaction. As stated above, PSCo will continue to be the licensee for the nuclear facilities and spent fuel shipping casks, and there will be no transfer of licenses as the result of the planned transaction. The status of surveillances, calibrations, leak tests etc. required

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by PSCo's FSV Nuclear Generating Station Technical Specifications, the ISFSI Technical Specifications, and the spent fuel shipping cask Certificates of Compliance are included in Attachment 2.

- h. A description of the status of the facility. Specifically, the presence or absence of contamination should be documented. If contamination is present, will decontamination occur before transfer? If not, does the successor company agree to assume full liability for the decontamination of the facility or site?

Response: Decommissioning of the FSV nuclear power plant is currently approximately 90% complete, and expected to be finished late in 1996. PSCo will continue to assume full liability for the costs of decommissioning. The decommissioning funding plan is detailed in Section 5 of the FSV Decommissioning Plan, and will not change as a result of the reorganization and merger. PSCo has obtained an irrevocable letter of credit from the Bank of New York, which provides assurance that funding will be available to cover the unfunded balance of decommissioning costs. The balance of the irrevocable letter of credit is reduced based on project milestone payments using the declining balance approach, as described in Section 5 of the FSV Decommissioning Plan. This decommissioning funding assurance mechanism will remain in effect until the completion of physical decommissioning activities, and will not be impacted by the reorganization and merger.

Fuel storage containers (FSCs) were only loaded into the ISFSI after the transfer casks used to transport the FSCs from the Reactor Building to the ISFSI were demonstrated to be free from external contamination (less than 1,000 dpm/100 cm²). This provided assurance that the outsides of the FSCs were clean, so contamination levels in the ISFSI storage vaults are expected to be minimal. The FSC closure seals were leak tested in the Reactor Building prior to loading into the ISFSI, and demonstrated to be adequately sealed. Therefore, no leakage of radioactivity from the FSCs into the storage vault modules is anticipated. However, the presence or absence of contamination in the storage vaults will not be known until the ISFSI is defueled, when the vaults will be radiologically characterized.

During defueling, the FSCs will be shipped offsite to a spent fuel repository where the fuel elements may be unloaded and the empty FSCs transferred back to the FSV ISFSI for storage until decommissioning. Internal contamination of the FSCs is expected to be significant, with contamination primarily in the form of activated graphite dust. The FSCs will either be decontaminated,

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or disposed of as low level radioactive waste. The container handling machine will also need to be radiologically characterized and decommissioned. Since precautions were taken to minimize any contamination on the outside of the FSCs, it is not anticipated that the container handling machine will have significant levels of contamination. In the event a FSC is discovered to leak, which is very unlikely, PSCo would place the leaking FSC in a standby storage well located at the north end of the ISFSI, and transfer individual fuel elements from the leaking FSC into an intact FSC, as described in the ISFSI SAR. While this operation would likely result in contamination of the standby storage wells and the container handling machine, it is not planned, and not expected to be necessary over the life of the ISFSI.

Decontamination of the ISFSI will not occur before the planned transaction is expected to be completed. PSCo shall continue to assume full liability for the decontamination of the ISFSI facility. The ISFSI Decommissioning Plan is contained in Attachment C to Reference 2, as revised by Reference 3. This plan includes a cost estimate for ISFSI decommissioning of \$1.617 million (1991 dollars), which conservatively assumes that it is necessary to decontaminate the container handling machine and the standby storage wells. As described in the decommissioning plan, the decommissioning funding plan was developed in accordance with 10 CFR 72.30(c)(1), and is based on the prepayment option with an external trust account. PSCo notified the NRC in Reference 4 that it had deposited \$1.448 million in the external trust account. This amount, together with projected earnings, is estimated to be sufficient to fully fund ISFSI decommissioning. The external trust fund will not be affected by the transaction.

- i. A description of any decontamination plans, including financial assurance arrangements of the transferee, should be provided, as specified in 10 CFR Sections 30.35, 40.36, and 70.25. This should include information about how the transferee and transferor propose to divide the transferor's assets, and responsibility for any cleanup needed at the time of transfer.

Response: Information related to the decontamination plans and financial assurance arrangements for decontamination is provided in the response to item h, above. PSCo will remain an independent company, continue to hold the nuclear licenses following the reorganization and merger, and continue to be fully responsible for decommissioning of the ISFSI.

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- j. An indication of whether the transferor and transferee agree to the change in ownership or control of the licensed material and activity. If so, documentation stating this should be provided.

Response: No transfer will take place under the reorganization and merger. PSCo will continue to be the licensee of the FSV nuclear power plant, the FSV ISFSI, the two spent fuel shipping packages, and the quality assurance program approval for radioactive material packages, as described above.

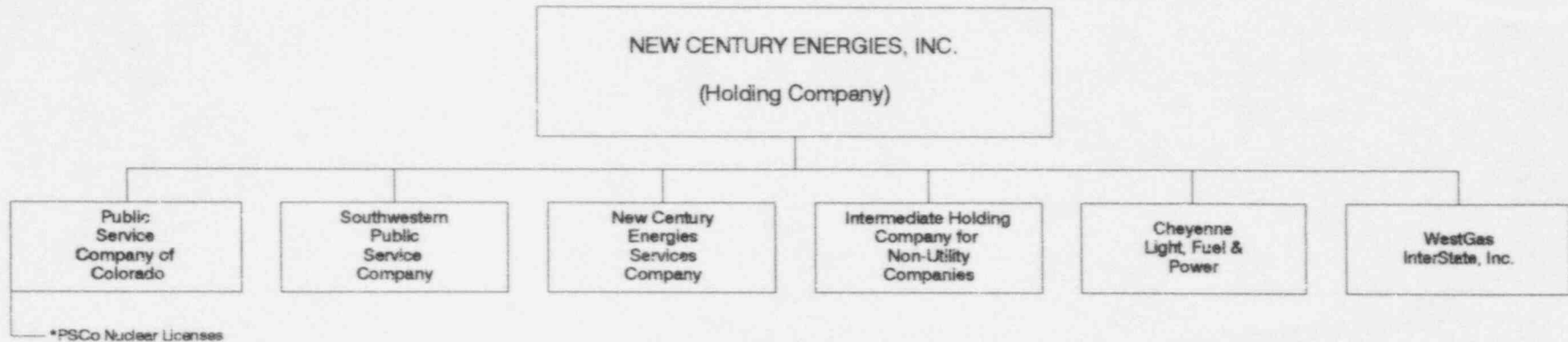
- k. A commitment by the transferee to abide by all constraints, conditions, requirements, representations, and commitments identified in the existing license. If not, the transferee must provide a description of its program to assure compliance with the license and regulations.

Response: PSCo will continue to be the licensee of the nuclear licenses referred to above. PSCo shall continue to abide by all constraints, conditions, requirements, representations and commitments identified in the existing nuclear licenses.

REFERENCES

1. NRC letter dated March 7, 1989 (G-89111), NRC Information Notice No. 89-25, Subject: "Unauthorized Transfer of Ownership or Control of Licensed Activities."
2. PSCo letter dated June 22, 1990 (P-90173), Crawford to Roberts (NRC), Subject: "Fort St. Vrain Independent Spent Fuel Storage Installation License Application."
3. PSCo letter dated August 26, 1991 (P-91261), Crawford to Ruffin; Subject: "Fort St. Vrain Independent Spent Fuel Storage Installation; Revised Decommissioning Funding Plan."
4. PSCo letter dated December 24, 1991 (P-91457), Crawford to Sturz; Subject: "Fort St. Vrain Independent Spent Fuel Storage Installation: Decommissioning Fund."

Structure of the Corporation Following the Planned Merger and Reorganization of Public Service Company of Colorado With Southwestern Public Service Company



* PSCo retains ownership of the nuclear facilities and continues as license holder.

FIGURE 1

STATUS OF SURVEILLANCES FOR PSCo's Nuclear Licenses

FSV Nuclear Generating Station

Decommissioning of the FSV Nuclear Generating Station has progressed to the point at which most of the surveillances called out in the Decommissioning Technical Specifications are no longer required. The only surveillance requirement in the Decommissioning Technical Specifications that remains applicable is that associated with the two area radiation monitoring instruments, SR 3.3.1. This SR requires a daily channel check, a monthly channel functional test, and a channel calibration every six months of the area radiation monitoring instruments on the refueling floor and in the truck bay of the Reactor Building. The channel calibration for both instruments was last performed in October, 1995, and the monthly functional test was last performed on December 12, 1995. The requirement to perform SR 3.3.1 is applicable until all significantly contaminated or activated items that could exceed alarm setpoints have been removed from the Reactor Building. It is projected that by early 1996 this criteria will be met and SR 3.3.1 will no longer be applicable.

FSV ISFSI

There are four surveillances required by the ISFSI Technical Specifications, Surveillances 3.1.2, 3.2.2, 3.3.2 and 3.4.2. Following is a status of performing these surveillances:

Surveillance 3.1.2 requires that a visual inspection of the cooling inlets and outlets be performed once per 7 days. This was last performed on December 13, 1995, and will continue to be performed every 7 days.

Surveillance 3.2.2 requires that the container handling machine (CHM) be demonstrated fully operable:

- a. by visually inspecting the CHM raise/lower mechanism components, within 31 days prior to use and at least once per 31 days during use.
- b. by functionally testing the charge face isolation valves, the CHM isolation valve, and all CHM control interlocks within 31 days prior to use and at least once per 12 months during use, and
- c. by functionally testing the dead stop device that limits the CHM lifting height within 31 days prior to use and at least once per 12 months during use.

All three of these surveillances were last performed in June, 1992. There have been no fuel handling operations at the ISFSI since the completion of fuel loading on June 10, 1992, so these surveillances have not been required to be performed in the meantime. These surveillances will be performed to demonstrate that the CHM is fully operable prior to the beginning of ISFSI defueling operations.

Surveillance 3.3.2(a) requires that the top closure O-ring interspace of each fuel storage container be leak tested prior to loading each fuel storage container into the ISFSI. This surveillance was performed on each fuel storage container during the ISFSI fuel loading operations, which took place from December 26, 1991 through June 10, 1992. Surveillance 3.3.2(b) requires leak testing of six fuel storage containers, one from each of the six vaults, 5 years after completing the initial loading of the ISFSI Modular Vault Dry Store (MVDS), and at subsequent intervals not to exceed 5 years. Since the ISFSI fuel loading operation was completed on June 10, 1992, Surveillance 3.3.2(b) is required to be performed by June 10, 1997. The leak test equipment needed to perform this requirement is available, located on the ISFSI charge face. Surveillance 3.3.2(c) requires that if any fuel storage container is found to have unacceptable leakage in the 3.3.2(b) surveillance tests, then an additional two fuel storage containers from each of the six vaults shall be leak tested. Any leakage in these additional fuel storage containers shall be reviewed and an engineering evaluation prepared, with a report submitted to the NRC.

Surveillance 3.4.2 requires that the seismic instrumentation associated with the ISFSI be functionally tested every 6 months and calibrated at least every 2 years. A factory calibrated seismic monitor was last installed and functionally tested in October, 1995, with a factory calibration date of June 8, 1995.

PSCo's Spent Fuel Shipping Casks

Certificate of Compliance No. 9253 for the new TN-FSV spent fuel shipping casks requires the casks to be leak tested within the 12-month period prior to shipment, and after seal replacement. Additionally, the package seals (main lid seal and vent port seal) must be leak tested prior to each shipment, and the drain port seal tested if the drain port cover has been removed. The packaging must meet the acceptance tests and must be maintained in accordance with the Acceptance Tests and Maintenance Program in the TN-FSV Safety Analysis Report. Prior to each shipment, the cask main closure seal and vent seal must be inspected. The drain seal must also be inspected if the drain port cover has been removed during

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preparation for shipment. All seals must be replaced within the 12-month period prior to shipment, or earlier if inspection shows any defect. The new TN-FSV spent fuel shipping casks recently arrived at the Fort St. Vrain (FSV) site, and have not been used for spent fuel shipping operations. PSCo will perform these inspections and tests as required prior to use of these casks for ISFSI defueling operations.

Certificate of Compliance No. 6346 for the FSV-1 spent fuel shipping casks has similar requirements to those enumerated above for the TN-FSV packaging. While the FSV-1 spent fuel shipping casks were used to transfer spent fuel from the FSV Reactor Building to the ISFSI during fuel loading operations, PSCo does not plan to use these casks for spent fuel shipments in the future. Should PSCo use the casks to transport irradiated hardware, or lease the casks for this purpose, the inspections and leak tests required by the Certificate of Compliance will be performed.

Effect of Planned Reorganization and Merger on Surveillances

As stated in the submittal letter, the planned reorganization and merger will not affect PSCo's status as licensee, and PSCo will continue to be the holder of the nuclear licenses for the FSV Nuclear Generating Station, the FSV ISFSI and the TN-FSV and FSV-1 spent fuel shipping packages. Therefore, PSCo will continue to be responsible for performance of the surveillances, calibrations and tests discussed above, as required by the nuclear licenses.