



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

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
SUPPORTING AMENDMENT NO. 11 TO FACILITY OPERATING LICENSE NO. NPF-86

NORTH ATLANTIC ENERGY COMPANY

SEABROOK STATION, UNIT NO. 1

DOCKET NO. 50-443

1.0 INTRODUCTION

By letter dated November 13, 1990, as supplemented by letters dated January 14, 1991, August 28, 1991, December 13, 1991, January 30, 1992, and February 14, 1992, the Public Service Company of New Hampshire (PSNH) submitted a request for an amendment to the Facility Operating License for Seabrook Station, Unit No. 1. In addition, two letters dated May 13, 1992 were received from Northeast Utilities providing information requested by NRC. The proposed amendment involves a transfer of the Seabrook Station ownership share from PSNH to North Atlantic Energy Company (NAEC), a wholly-owned subsidiary of Northeast Utilities (NU). The PSNH portion of ownership of Seabrook (35.6%) will be transferred to NAEC, and a separate license amendment has been proposed to accomplish the transfer of managing authority from PSNH to another NU subsidiary (NAESCO). The January 14, 1991, August 28, 1991, December 13, 1991, January 30, 1992, and February 14, 1992, letters and the May 13, 1992, letters from NU provided clarifying information that did not change the proposed action or the initial proposed no significant hazards consideration determination.

Northeast Utilities (NU) plans to purchase the shares of Seabrook owned by the Public Service Co. of New Hampshire, Inc. (PSNH) and the non-Seabrook portion of PSNH for \$2.3 billion. The PSNH ownership share will then be transferred to NAEC. The purchase represents about a 35.6% share of the Seabrook Station. About 90 percent of this purchase is to be financed initially by debt, that is, various classes of bonds and bank borrowing. When this is completed, NU will have a debt capitalization ratio in the mid-seventy percent, meaning the proportion of corporate assets financed by indebtedness. This is substantially above the typical public utility indebtedness of about fifty percent.

The advantage of high debt financing is that if revenues and costs are such that interest and debt payments can be made as required, the cost of capital is less than with equity financing. However, this financing plan creates concern for NRC because meeting the fixed cost of debt service will place the company under financial stress if revenue is less than expected or if operating costs are higher than expected.

In any ownership transfer, the staff requires reasonable assurance that the new owner will provide for safe operation and maintenance of the plant, including providing the necessary funds for operation and maintenance. Consequently, the staff carefully considered the potential impacts of this ownership transfer and the potential financial impact on the safe operation of Seabrook.

2.0 EVALUATION

The proposed new owner, NAEC, is an electric utility whose rates are established by FERC, a regulatory authority. For this reason, NAEC is an "electric utility" under 10 CFR § 50.2, which need not show financial qualifications. See 10 CFR § 50.40(b); 50.57(a)(4). NU, has considerable experience as the owner and operator of several nuclear power plants. NU currently has a significant ownership interest in four other plants, including the Haddam Neck plant, and Millstone Units 1, 2, and 3. The amendment request stated that it involved no physical change to the Seabrook facility nor to its design or design basis or operation of the plant. The staff has had some concerns in certain specific areas of NU's recent performance. These concerns have been satisfactorily resolved by the inclusion of a number of license conditions as discussed in the SE supporting the license amendment which transferred managing authority to NAESCO.

Monitoring Funding and Operations

During a transition period of three years, the staff plans to monitor the Seabrook operations and maintenance budget and capital expenditure budget as well as operational performance. This monitoring will be done through special reports and commitments from NU.

In two letters dated May 13, 1992, NU committed, at NRC request, to keep the NRC apprised on a timely basis of any significant changes in the O&M and capital budgets and projections for calendar years 1992-1995, including an explanation for such changes. In addition, budget information was presented for prior years. NU assured the NRC that adequate financial resources would be provided for nuclear operations at Seabrook as well as at the Millstone and Haddam Neck facilities. Furthermore, financial commitments were made to support a significant Performance Enhancement Program at the Millstone facility. The NRC finds these commitments acceptable. In addition, financial monitoring by NRC will, except for unusual situations, include reviewing and evaluating financial information from, (1) Northeast Utilities Annual Report, (2) Value Line Investment Survey, (3) Standard and Poor's Credit Week, (4) Moody's Bond Survey, and (5) Moody's Investors Service.

In the previous license amendment approving the transfer of managing agent to NAESCO, the NRC staff imposed four license conditions with special reporting requirements relating to: any changes in the Senior Site Official, substantive changes to the employee concerns program, any allegations of intimidation, harassment, or discrimination, any changes adverse to safety in the compensation incentive program, and any report relating to plant design, equipment, personnel performance or plant operations that could have adverse safety effects.

Through the special reports required by the license conditions in the amendment approving the transfer of managing agent to NAESCO, and through budget information provided by NU, the staff will oversee the transition in ownership and operation to assure that it occurs safely.

3.0 FINAL NO SIGNIFICANT HAZARDS CONSIDERATION

The licensee's request for this amendment to the operating license for the Seabrook Station, including a proposed determination by the staff of no significant hazards consideration, was noticed in the Federal Register on February 28, 1991 (56 FR 8373). The Commission's regulations in 10 CFR 50.92(c) include three standards used by the NRC staff to arrive at a determination that a request for amendment involves no significant hazards considerations. These regulations state that the Commission may make such a final determination if operation of a facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application and determined that the proposed changes do not involve a significant hazards consideration. In regard to the three standards, the licensee provided the following analysis.

- (1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

As a result of the proposed license amendment, there will be no physical change to the Seabrook facility, and all Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the Technical Specifications will remain unchanged. Also, the Seabrook Quality Assurance Program, and the Seabrook Emergency Plan, Security Plan, and Operator Training and Requalification Program will be unaffected.

- (2) The proposed changes would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will have no effect on the physical configuration of Seabrook or the manner in which it will operate. The Seabrook plant design and design basis will remain the same. The current plant safety analyses will therefore remain complete and accurate in addressing the design basis events and in analyzing plant response and consequences.

The Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the Technical Specifications for Seabrook are not affected by the proposed license amendment. As such, the plant conditions for which the

design basis accident analyses have been performed will remain valid. Therefore, the proposed license amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

- (3) Use of the modified specification would not involve a significant reduction in a margin of safety.

Plant safety margins are established through Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the Technical Specifications. Since there will be no change to the physical design or operation of the plant, there will be no change to any of these margins. Thus, the proposed license amendment will not involve a significant reduction in a margin of safety.

On April 1, 1991, Seabrook Anti-Pollution League (SAPL) filed an intervention petition which contests the ownership transfer from PSNH to the North Atlantic Energy Company (NAEC). The petition was dismissed because SAPL had not shown standing to intervene concerning the transfer of ownership since it did not show alleged harm would abate if it were granted relief in regard to the ownership transfer amendment. See Public Service Co. of New Hampshire (Seabrook Station, Unit 1), CLI-91-14, 34 NRC 261, 267-68 (1991). The SAPL petition raised the issue of possible NU intimidation and harassment of several employees at the Millstone Nuclear Power Plant for reporting possible violations of regulations to the NRC. The petition indicated that this management attitude could lead to an increase in the hazard of the operation of Seabrook, and that NU should not be permitted to become the licensed operator of Seabrook Station. An additional concern, that NU financial problems would preclude a safe takeover of Seabrook operation, was presented by SAPL in a public meeting with the Commission on May 11, 1992. Those statements have been treated as comments on the staff's proposed no significant hazards determination for the license amendment herein.

The staff addressed the concerns of the petitioner in several reports to the Commission (SECY-92-099 dated April 20, 1992, SECY-92-156 dated April 29, 1992, and SECY-92-156A dated May 15, 1992). The staff met with the Commission and with NU in a public meeting on May 11, 1992. As a result of the staff's and the Commission's deliberations, the staff imposed special license conditions upon the Seabrook licensees. The special license conditions were a condition of approval of the previous license amendment transferring managing authority to NAESCO. Those license conditions require the licensees to inform the staff of particular issues. Specifically, NRC will require that it be informed of: any change in the senior site official; reports to the Joint Owners from the Oversight Committee, the licensee, or contractors or consultants, including those that relate to employee discrimination or indications of conditions potentially adverse to safety (such reports will

provide NRC with an early opportunity to assure that plant operations do not in fact become adversely affected); any substantive programmatic or procedural changes to the employee concerns program; any allegation of employee harassment, intimidation or discrimination; any change in the incentive compensation programs which could have potentially adverse effects on safety; and any changes to the annual operating and maintenance budget and to the capital expenditure budget. The staff will further require that any oversight reports will be followed by a report from the Operator (NAESCO) to NRC assessing the oversight report and indicating planned corrective action. The Operator's report will be reviewed and assessed by the Joint Owners which will also report to NRC its corrective actions and disposition of the Operator's report. Further, to assure that NRC is aware of significant changes in the oversight functions, NRC will require that for a limited time NRC be informed of changes to certain sections of the agreements among the owners relating to the oversight function of the Executive Committee and the Oversight Committee.

In two letters dated May 13, 1992, NU committed, at NRC request, to keep the NRC apprised on a timely basis of any significant changes in the O&M and capital budgets and projections for calendar years 1992-1995, including an explanation for such changes. In addition, budget information was presented for prior years. NU assured the NRC that adequate financial resources would be provided for nuclear operations at Seabrook as well as at the Millstone and Haddam Neck facilities. Furthermore, financial commitments were made to support a significant Performance Enhancement Program at the Millstone facility. The NRC finds these commitments acceptable.

For these reasons, and those given (above) by the licensee, the staff agrees with the licensee's determination, and therefore has made a final determination that the proposed amendment does not involve a significant hazards consideration.

4.0 ANTITRUST EVALUATION

Pursuant to Section 105c of the Atomic Energy Act of 1954, as amended (Act) and the Commission's Rules and Regulations, the staff conducted an antitrust operating license review to determine whether significant changes have occurred in the licensee's activities since the construction permit review.

Pursuant to procedures set forth by the Commission in delegating authority to the Director of the Office of Nuclear Reactor Regulation and the Director of the Office of Nuclear Material Safety and Safeguards, as appropriate, the Director of the Office of Nuclear Reactor Regulation has made a finding that as a result of the proposed merger, no significant antitrust changes have occurred since the operating license antitrust review of Seabrook.

The Director's finding was published in the Federal Register on February 19, 1992 and provided for requests for reevaluation of the finding by March 20, 1992. A request to reevaluate (Request) the Director's finding was received from counsel representing the City of Holyoke Gas and Electric Department (HG&E) of the City of Holyoke, Massachusetts on March 20, 1992.

Although the Act does not specifically address the addition of new owners or operators after the initial licensing process, the staff has, in analyzing situations where new ownership occurs after issuance of an operating license, applied standards set forth by the Commission in the Summer proceeding (11 NRC 817 (1980)) in order to determine whether an antitrust review is required. Against this backdrop, the staff has conducted antitrust reviews of operating license amendment requests that seek to add new licensees to the license -- the subject of the instant reevaluation request.

Although the actions taken by the staff when faced with operating license amendments that request the addition of a new owner or placing a non-owner operator on a license have been tailored to each particular amendment request, reviews of post-operating license amendment applications involving change in licensees have included an antitrust review by the staff and consultation with the Attorney General. The antitrust review by the staff focuses on significant changes in the licensee's activities since the most recent antitrust review of the facility in question. The staff applied these criteria and procedures established by the Commission for dealing with "significant change" determinations in reaching its No Significant Change Finding for Seabrook.

The concerns raised by HG&E in its Request were thoroughly considered by the staff in its initial evaluation of competitive changes resulting from the proposed merger between PSNH and NU. The information provided by HG&E does not identify any new competitive concerns or any data that were overlooked by the staff in its initial review of the proposed merger. Consequently, it is the determination of the staff that the criteria established by the Commission in Summer to substantiate a "significant change" have not been met.

Although the proposed change will take place since the previous antitrust review and can reasonably be attributed to the licensee (Summer criterion 1 and 2), a Commission remedy would not be warranted given the review and merger conditions approved by the Federal Energy Regulatory Commission.

In a previous license amendment approving the transfer of managing authority from PSNH to NAESCO, a license condition was imposed which prohibits NAESCO from participating in the marketing or brokering of energy. All licensees, including NAEC, are responsible and accountable for the actions of their agent to the extent said agent's actions effect the marketing or brokering of power and energy from Seabrook Station, Unit 1.

The Commission's Rules and Regulations (2.101(e)(3)) provide for a thirty day period in which the Commission can review a reevaluation of a "significant

change" determination. The Director has determined that he will not change his finding that no "significant change" has occurred. The Director's reevaluation was published in the Federal Register on April 20, 1992 (57 FR 14439) and became final NRC action on May 9, 1992.

5.0 STATE CONSULTATION

In accordance with the Commission's regulations, the New Hampshire and Massachusetts State officials were notified of the proposed issuance of the amendment. The State officials had no comments.

6.0 ENVIRONMENTAL CONSIDERATION

Pursuant to CFR 51.21, 51.32, and 51.35, an environmental assessment and finding of no significant impact was published in the Federal Register on January 31, 1992 (57 FR 3801).

Accordingly, based upon the environmental assessment, the Commission has determined that issuance of this amendment will not have a significant effect on the quality of the human environment.

7.0 CONCLUSION

We have concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

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Date: May 29, 1992