

From: Victor Hall
Sent: Friday, December 2, 2022 1:23 PM
To: Vogtle PEmails
Subject: FW: RAI regarding DFA reporting for Vogtle
Attachments: Vogtle 3 and 4 RAI re DFA_Final w NLO.pdf

From: Victor Hall
Sent: Thursday, December 1, 2022 9:31 AM
To: Chamberlain, Amy Christine <ACCHAMBE@southernco.com>
Subject: RAI regarding DFA reporting for Vogtle

Hello Amy,
Please find the attached Request for Additional Information on DFA reporting, with three questions related to your March 2020 letter to the NRC (ML20099E527). There were no changes from the draft. The staff is requesting SNC's response in 60 days (i.e., January 30, 2023). I will be making this e-mail and the attachment publicly available.

If you have any questions, please do not hesitate to contact me,
-Vic

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Hearing Identifier: Vogtle_COL_Docs_Public
Email Number: 644

Mail Envelope Properties (MW4PR09MB93945BB05D12C2D9FC2EBE76E7179)

Subject: FW RAI regarding DFA reporting for Vogtle
Sent Date: 12/2/2022 1:23:17 PM
Received Date: 12/2/2022 1:23:21 PM
From: Victor Hall

Created By: Victor.Hall@nrc.gov

Recipients:
"Vogtle PEmails" <Vogtle.PEmails@usnrc.onmicrosoft.com>
Tracking Status: None

Post Office: MW4PR09MB9394.namprd09.prod.outlook.com

Files	Size	Date & Time
MESSAGE	763	12/2/2022 1:23:21 PM
Vogtle 3 and 4 RAI re DFA_Final w NLO.pdf		133875

Options
Priority: Normal
Return Notification: No
Reply Requested: No
Sensitivity: Normal
Expiration Date:

REQUEST FOR ADDITIONAL INFORMATION
RELATED TO THE 10 CFR 50.75
DECOMMISSIONING FUNDING ASSURANCE REQUIREMENTS
FOR
VOGTLE ELECTRIC GENERATING PLANT UNITS 3 AND 4

Background

By letter dated March 28, 2008, Southern Nuclear Operating Company (SNC), acting on behalf of itself and the proposed owners Georgia Power Company (GPC), Oglethorpe Power Corporation (Oglethorpe), Municipal Electric Authority of Georgia (MEAG), and the City of Dalton, Georgia (Dalton), submitted its application to the United States Nuclear Regulatory Commission (NRC) for combined operating licenses (COLs) for two AP1000 advanced passive pressurized-water reactors. These reactors are identified as Vogtle Electric Generating Plant (VEGP) Units 3 and 4. On February 10, 2012, the NRC issued COLs and Limited Work Authorizations for SNC (ADAMS Accession No. ML113540620) for VEGP Units 3 and 4.

SNC is the licensed operator of VEGP Units 3 and 4. Licensed ownership of VEGP Units 3 and 4 is held by four co-owners, as follows: 45.7 percent by GPC, 30 percent by Oglethorpe, 22.7 percent by MEAG, and 1.6 percent by Dalton.

Regulatory oversight related to decommissioning funding assurance (DFA) for power reactor licensees is an ongoing effort beginning with the license application and ending with the completion of radiological decommissioning of the facility and subsequent license termination. With respect to VEGP Units 3 and 4, DFA oversight is currently evaluated under the regulations in Section 50.75 of Title 10 of the *Code of Federal Regulations* (10 CFR). As discussed below, the NRC staff requires additional information to determine compliance with 10 CFR 50.75(e)(3) for VEGP Units 3 and 4.

Regulatory Basis for Request

10 CFR 50.75(b) states, in relevant part:

...

(1) . . . For an applicant for a combined license under subpart C of 10 CFR part 52, the report must contain a certification that financial assurance for decommissioning **will be provided** (emphasis added) no later than 30 days after the Commission publishes notice in the Federal Register under § 52.103(a) in an amount which may be more, but not less, than the amount stated in the table in paragraph (c)(1) of this section, adjusted using a rate at least equal to that stated in paragraph (c)(2) of this section.

...

(3) The amount must be covered by one or more of the methods described in paragraph (e) of this section as acceptable to the NRC.

(4) The amount stated in the applicant's or licensee's certification may be based on a cost estimate for decommissioning the facility. As part of the certification, a copy of the financial instrument obtained to satisfy the requirements of paragraph (e) of this section must be submitted to NRC; *provided, however*, that an applicant for or holder of a combined license need not obtain such financial instrument or submit a copy to the Commission except as provided in paragraph (e)(3) of this section.

10 CFR 50.75(e) states, in relevant part:

(e)(1) Financial assurance is to be provided by the following methods.

...

(ii) *External sinking fund.* An external sinking fund is a fund established and maintained by setting funds aside periodically . . . in which the total amount of funds would be sufficient to pay decommissioning costs at the time permanent termination of operations is expected. . . .

...

(3) Each holder of a combined license under subpart C of 10 CFR part 52 shall, 2 years before and 1 year before the scheduled date for initial loading of fuel, consistent with the schedule required by § 52.99(a), submit a report to the NRC containing a certification updating the information described under paragraph (b)(1) of this section, including a copy of the financial instrument to be used. No later than 30 days after the Commission publishes notice in the *Federal Register* under 10 CFR 52.103(a), the licensee shall submit a report containing a certification that financial assurance for decommissioning **is being provided** (emphasis added) in an amount specified in the licensee's most recent updated certification, including a copy of the financial instrument obtained to satisfy the requirements of paragraph (e) of this section.

Regulatory Guide 1.159, "Assuring the Availability of Funds for Decommissioning Nuclear Reactors," Revision 2, Section 1.1.1 (ML112160012), states, in relevant part:

...

The purpose of the decommissioning report, required under 10 CFR 50.33(k) and described in 10 CFR 50.75(b) and (c), is to provide reasonable assurance that licensees have a viable plan to accumulate funds in the certification amount, adjusted for inflation, by the projected time of permanent cessation of operations. Each licensee should submit a statement indicating the certification amount and inflation adjustment appropriate for its reactor or reactors, together with a photocopy or conformed copy of the instrument being used to provide assurance of decommissioning funding. If an external sinking fund is being used, the proposed amount of annual (or more frequent) payments should be provided.

Analysis

The regulations in 10 CFR 50.75(e)(3) provide that within 30 days of publication of the 10 CFR 52.103(a) notice in the *Federal Register* for VEGP Units 3 and 4, the licensee submit a certification that financial assurance for decommissioning **is being provided** in an amount specified in the licensee's most recent updated certification (\$513 million). This certification is distinct from the initial certification cited in 10 CFR 50.75(b)(1) and the subsequent certifications (at "2 years before and 1 year before the scheduled date for initial loading of fuel") cited in the first sentence of 10 CFR 50.75(e)(3), in that information provided with this certification should demonstrate that financial assurance *is being provided* in a manner that can be substantiated by staff through analysis of data provided by the licensee (e.g., current decommissioning trust fund balance (if any), future schedule of contributions, financial test data for use of guarantee funding mechanisms, etc.).

On March 3, 2020, SNC, on behalf of itself and the co-owners, submitted "Vogle, Units 3 and 4 – Financial Assurance Requirements for Decommissioning" (ML20099E527) to satisfy the requirement in 10 CFR 50.75(e)(3). The letter states that the NRC minimum funding amount for each unit is approximately \$513 million and includes a copy of the financial instruments obtained. The letter also states, in relevant part,

Georgia Power Company (GPC), Oglethorpe Power Corporation (OPC), Municipal Electric Authority of Georgia (MEAG) and the City of Dalton ("Dalton Utilities"), thereby referenced as "Owners", recover the estimated total cost of decommissioning through rates established by "cost of service" or similar ratemaking regulation, and therefore are authorized by 10 CFR 50.75(e)(1)(ii)(A) to use the external sinking fund method as the exclusive mechanism for providing financial assurance of decommissioning funds. Accordingly, the Owners will deposit funds for the decommissioning of VEGP Units 3 and 4 using the external sinking fund method described in 10 CFR 50.75(e)(1)(ii).

The information in this paragraph is similar to that submitted by SNC in its COL Application (ML11180A098) to satisfy 10 CFR 50.75(b). Prior to the March 3, 2020 submittal, SNC submitted certifications on December 16, 2016, and November 21, 2019 (ML16351A491 and ML19325E911, respectively), to satisfy the certification requirement 2 years and 1 year prior to fuel load, as described in 10 CFR 50.75(e)(3).

While these submissions satisfied 10 CFR 50.75(b) and the relevant part of 10 CFR 50.75(e)(3) (2 years and 1 year prior to fuel load), additional information is required under 10 CFR 50.75(e)(3) for the certification required within 30 days of the publication of the 10 CFR 52.103(a) notice in the *Federal Register* to demonstrate that financial assurance for decommissioning **is being provided** in the amount specified (\$513 million). Specifically, SNC's March 2020 report does not indicate whether any funds have been deposited into the external sinking funds for VEGP Units 3 and 4 and does not provide a schedule for future contributions with the proposed amount of annual (or more frequent) payments that would be sufficient to pay decommissioning costs.

During a non-public meeting held on September 8, 2022 (ML22241A119), SNC verbally provided the NRC staff with additional information regarding DFA for Georgia Power Company. That information, along with any updated information, should be submitted, in writing, consistent with the information requested below.

Request for Additional Information

In order for staff to make a determination that financial assurance is being provided in accordance with 10 CFR 50.75(e)(3), please provide one or more of the following for each licensed owner:

1. A schedule of future contributions for VEGP Units 3 and 4 into the external sinking fund that, when compounded at a real rate of return of 2 percent as allowed by NRC regulation or other real rate of return as would be authorized by the public service commission or other rate-setting authority, will meet the minimum formula amount in 10 CFR 50.75. To demonstrate DFA and compliance with 10 CFR 50.75(e)(3), the aggregate amount of the owners' contributions should be equal to or greater than the minimum amount in 10 CFR 50.75 for each unit (\$513 million), and the licensees should confirm that initial contributions have been made to the external sinking funds for each unit.

If the licensees are currently maintaining a zero balance in the external sinking funds (i.e., no contributions to date), in addition to the schedule of future contributions described above, please provide formal commitments from the public service commission or other rate-setting authority to fund the external sinking funds for VEGP Units 3 and 4.

2. In the absence of a formal commitment, a detailed discussion regarding the process and timeline for each owner's interaction with the public service commission or other rate-setting authority regarding obtaining official commitment to fund the external sinking funds for VEGP Units 3 and 4. This discussion should demonstrate that the licensees have made a good-faith effort to obtain rate relief to cover their respective obligations under 10 CFR 50.75(e)(3) and have informed their rate regulators of these obligations. The schedule of future contributions described in RAI 1 should also be provided.
3. If 1 and 2 (above) cannot be provided, DFA using one or more funding assurance methods described in 10 CFR 50.75(e)(1) should be provided or a request for exemption from the regulations should be submitted in accordance with 10 CFR 50.12.