May 10, 2000

MEMORANDUM TO: Elinor Adensam, Director
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

FROM: Cynthia A. Carpenter, Chief**/RA/**
Generic Issues, Environmental, Financial
And Rulemaking Branch
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

SUBJECT: SAFETY EVALUATION FOR THE PROPOSED INDIRECT TRANSFER OF OWNERSHIP INTEREST FROM THE UNITED ILLUMINATING COMPANY TO UIL HOLDINGS CORPORATION FOR MILLSTONE UNIT 3 AND SEABROOK UNIT 1

Attached is the Safety Evaluation for the proposed indirect transfer of ownership interest in Millstone Unit 3 and Seabrook Unit 1, pursuant to the establishment of a new corporate holding company over The United Illuminating Company (UI). UI is a 3.685% owner, non-operator of Millstone Unit 3, and a 17.5% owner, non-operator of Seabrook Unit 1.

Based on an examination of the February 17, 2000, application and supporting documents, staff concludes that the requested license transfers should be approved.

Dockets Nos. 50-423 & 50-443

Attachment: Safety Evaluation Report

Contact: Michael A. Dusaniwskyj
415-1260

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DISTRIBUTION
ADAMS
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CCarpenter
BZalcman
RWood
MDusaniwskyj
Rpulsifer

OFFICE	RGEB	RGEB	SC:RGEB	C:RGEB
NAME	MDusaniwskyj:sw	RWood	BZalcman	CCarpenter
DATE	5/5/00	5/8/00	5/9/00	5/10/00

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

PROPOSED INDIRECT TRANSFER OF OWNERSHIP INTEREST

IN THE OPERATING LICENSES OF

MILLSTONE NUCLEAR POWER STATION, UNIT 3, DOCKET NO. 50-423

AND

SEABROOK NUCLEAR POWER STATION, UNIT 1, DOCKET NO. 50-443

1.0 INTRODUCTION

Pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and Section 50.80 of Title 10 of the Code of Federal Regulations (10 CFR 50.80), by application dated February 17, 2000, and supplemented on March 1, April 24, and May 5, 2000, (hereafter referred to as the application), The United Illuminating Company (UI) requested that the Nuclear Regulatory Commission (NRC) consent to the transfer of control of Operating Licenses No. NPF-49 and NPF-56 for Millstone Nuclear Power Station, Unit 3, (Millstone Unit 3) and Seabrook Nuclear Power Station, Unit 1, (Seabrook Unit 1) respectively. The March 1st and April 24th letters provided clarifying information and did not expand the scope of the original Federal Register Notice.

The transfer request is pursuant to a proposed corporate restructuring of UI, in which a new corporate parent company, UIL Holdings Corporation (Holdings) will be formed. UI will become the wholly-owned subsidiary of Holdings. This action is being taken by UI in order to comply with provisions of Connecticut's Act Concerning Electric Restructuring, (Connecticut Public Act No. 98-28, (April 29, 1998), "Connecticut Restructuring Act").

UI proposes to accomplish the proposed reorganization through a merger and share exchange, specifically in what the applicant calls a "reverse triangular merger," which is in accordance with the Connecticut Business Corporation Act (CBCA), (see C.G.S.A. §§ 33-600 to 33-998), and pursuant to an Agreement and Plan of Merger and Share Exchange (Plan of Exchange). A copy of the Plan of Exchange was attached to the application as Exhibit A. The Plan of Exchange was approved by order of the Connecticut Department of Public Utility Control (CDPUC) on May 19, 1999, and a copy of that order was attached to the application as Exhibit B. As a result of the CDPUC order, the new corporate parent of UI will be UIL Holdings Corporation (Holdings).

UI is the current licensee for its 3.685% ownership interest in Millstone Unit 3 and is the current licensee for its 17.5% ownership interest in Seabrook Unit 1. After the proposed corporate restructuring, UI will continue to be the licensee for the two plants. UI does not currently

operate the Millstone Unit 3 or Seabrook Unit 1 nuclear power plants, nor will it operate the plants after the proposed corporate restructuring.

2.0 BACKGROUND

Pursuant to the Plan of Exchange, all of the outstanding shares of UI's common stock, par no value, (UI Common Stock) will be exchanged on a share-for-share basis for shares of common stock, without par value, (Holdings Common Stock) in Holdings. Holdings was incorporated under the laws of the State of Connecticut on March 22, 1999.

Specifically, a holding company structure will be accomplished, pursuant to the Plan of Exchange, through a reverse triangular merger that will result in UI becoming the wholly-owned subsidiary of Holdings. Currently, Holdings is UI's wholly-owned subsidiary, and UI holds all 100 shares of Holdings Common Stock. Holdings, in turn, has formed its own wholly-owned Connecticut corporation subsidiary named United Mergings, Inc., (Mergings). Mergings was incorporated under the laws of the State of Connecticut on March 22, 1999, as a wholly-owned subsidiary of Holdings to facilitate the Plan of Exchange. When the Plan of Exchange is put into effect, the following events will occur to create the final holding company structure:

- Mergings will merge with and into UI with UI being the surviving corporation.
- Each outstanding share of Mergings Common Stock will be automatically converted into one share of UI Common Stock.
- Each outstanding share of UI Common Stock (excluding shares with respect to which dissenter's rights have been properly exercised) will be automatically converted into one share of Holdings Common Stock.
- Each share of the 100 shares of Holdings Common Stock owned by UI as Holdings' former parent Corporation) will automatically be canceled

After the exchange of shares, (Share Exchange), each person who owned UI Common Stock immediately prior to the Share Exchange will own a corresponding number of shares of the outstanding Holdings Common Stock. UI currently has a wholly-owned subsidiary, United Resources, Inc., which has four wholly-owned subsidiaries engaged in non-regulated businesses. One of these United Resources, Inc. subsidiaries, owns three further subsidiaries engaged in non-regulated businesses.

Holdings will own all the outstanding shares of UI Common Stock. Upon the effectiveness of the Share Exchange, UI will transfer to Holdings its ownership interest in United Resources, Inc. This transfer will complete the corporate restructuring by separating Holdings' regulated and unregulated businesses. Holdings will also own all or part of the outstanding shares of common stock of any subsidiaries it may form after the Share Exchange. The application contains charts showing the corporate structure and ownership of the business entities involved in the UI reorganization, both before and after the proposed reorganization, provided as Attachment A.

UI's Board of Directors has approved the restructuring pursuant to the Plan of Exchange. UI's shareholders voted for the Plan of Exchange at a special meeting in New Haven, Connecticut, on March 17, 2000. The applicant has stated that two-thirds of all the shares entitled to vote approved the Plan of Exchange, and if the Commission approves this application, and certain other conditions (including obtaining FERC approval) are satisfied, the Share Exchange will become effective upon the filing of a Certificate of Merger and Exchange with the Connecticut Secretary of the State, or otherwise specified in the Certificate of Merger and Exchange.

3.0 FINANCIAL QUALIFICATIONS ANALYSIS

Pursuant to 10 CFR 50.33(f), an electric utility is exempt from demonstrating its financial qualifications. Section 50.2 of 10 CFR states that an electric utility is "any entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by separate regulatory authority."

In the application, UI states that it is an investor-owned utility company organized and operated under the laws of the State of Connecticut. UI is presently engaged principally in the production, purchase, transmission, distribution and sale of electricity at wholesale and at retail for residential, commercial and industrial customers. UI supplies electricity to customers in the southwest part of Connecticut. In addition, UI provides transmission service to other utilities for the wheeling of electricity over the Company's transmission facilities.

UI's retail assets and operations are subject to regulation by the CDPUC. The CDPUC regulates UI's retail electric service rates, accounting procedures, dispositions of property and plant, mergers and consolidations, the issuance of securities, standards of service, management efficiency, operation and construction, and the location of facilities.

UI is also a public utility as defined in Section 201(e) of the Federal Power Act, 16 U.S.C. § 824(e). As such, UI is subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC). UI purchases and sells electricity at wholesale and transmits electric energy in interstate commerce under rate schedules on file with FERC.

The application states that the proposed reorganization would have no adverse effect on UI's financial health, and in particular would not impair the availability to UI of funds needed to carry out its activities and responsibilities under the Millstone Unit 3 and Seabrook Unit 1 possessory licenses. A copy of UI's Annual Report on Form 10-K to the Securities and Exchange Commission, as amended, is attached to the application as Exhibit C. The 10-K demonstrates that the Company has access to revenues for ongoing operations through the sale of electric power.

After the proposed reorganization, UI states that it would remain subject to the jurisdiction of the CDPUC with respect to rates for retail electric service and other matters including the Company's costs of implementing the proposed reorganization. Any changes in UI's arrangements for bulk power sales on the wholesale market, or in its rates for transmission of electricity in interstate commerce, would remain subject to review and approval by FERC.

The proposed corporate reorganization would have no effect on UI's capital structure, or its cost of obtaining financing. The adoption of the holding company structure will not alter the source of UI's funds for conducting its utility operations. UI's share of Millstone Unit 3 and Seabrook Unit 1 costs, including prudently incurred investments and decommissioning costs, will continue to be derived from customer payments for utility services subject to regulated rates, in the same manner as before the reorganization.

The NRC staff finds that UI is and will remain after the proposed restructuring an electric utility as defined in 10 CFR 50.2, in that it generates and distributes electricity and which recovers the cost of this electricity through rates established by a separate regulatory authority. Therefore, its financial qualifications are presumed under 10 CFR 50.33(f), and no further evaluation is required.

However, in view of the NRC's concern that restructuring can lead to a diminution of assets necessary for the safe operation and decommissioning of a licensee's nuclear power plant, the NRC has sought to obtain commitments from its licensees that initiate restructuring actions not

to transfer significant assets from the licensee without notifying the NRC. On page 9 in the UI application, UI has agreed to the following commitment or equivalent as a condition for the units licenses or of the order granting the proposed restructuring:

> UI agrees to provide the Office of the Director of the Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from UI to its proposed parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of such licensee's consolidated net utility plant, as recorded on UI's book of accounts.

4.0 DECOMMISSIONING FUNDING

The NRC has determined that the requirements to provide reasonable assurance of decommissioning funding and provision of an adequate amount of decommissioning funding are necessary to ensure the adequate protection of public health and safety.

Section 10 CFR § 50.33(k) requires that an application for an operating license for a utilization facility contain information indicating how reasonable assurance will be provided that funds will be available to decommission the facility.

The Commission provides for two acceptable methods of funding decommissioning trusts, non-bypassable charges and traditional cost-of-service rate regulation.

As defined in 10 CFR 50.2, cost-of-service regulation means:

> ...the traditional system of rate regulation or similar regulation including 'price cap' or 'incentive' regulation, in which a rate regulatory authority generally allows an electric utility to charge its customers the reasonable and prudent costs of providing electricity services, including capital, operations, maintenance, fuel, decommissioning, and other costs required to provide such services.

With respect to prior levels of decommissioning (prior to the proposed restructuring), costs have been included in Connecticut's rates on a cost-of-service basis, designed to provide full recovery under Section 16-19 of the Connecticut Statutes for Millstone Unit 3, and is consistent with its Section 16-19e ratemakeing principles. UI has no customers and no rates in New Hampshire, but recovered decommissioning costs for Seabrook Unit 1 from Connecticut's cost-of-service rates. Future decommissioning costs for Seabrook Unit 1 are to be included in the System Benefits Charge, under Section 16-2451 of the Connecticut Statutes, which is a non-bypassable charge assessed on Connecticut rat e payers.

On September 22, 1998, the Commission issued a Final Rule in its Financial Assurance Requirements for Decommissioning Nuclear Power Reactors, 63 Fed Reg 50,465 (1998) (codified at 10 CFR Parts 30 and 50). In this rulemaking, the Commission added "non-bypassable charges" as an additional mechanism by which a licensee may meet its obligation to provide financial assurance As set forth in 10 CFR § 50.2, non-bypassable charges are defined as:

> . . . those charges imposed over an established time period by a Government authority that affected persons or entities are required to pay to cover costs associated with the decommissioning of a nuclear power plant. Such charges include, but are not limited to, wire charges, stranded cost charges, transition

charges, exit fees, other similar charges, or the securitized proceeds of a revenue stream.

Future decommissioning costs are to be included in the systems benefits charge (Connecticut Statutes 16-2451) which is a non-bypassable charge. UI will recover future decommissioning funds using both non-bypassable charges and traditional cost-of-service.

In accordance with 10 CFR 50.75(b), UI will maintain financial assurance for decommissioning funding that meets the requirements of 10 CFR 50.75(e), by maintaining external sinking funds for each of the units. The mechanism for managing funds from future contributions to the external sinking funds differs between UI's New Hampshire and Connecticut plants, depending upon each state's restructuring legislation.

DECOMMISSIONING FUNDING ASSURANCE IN NEW HAMPSHIRE

New Hampshire has enacted a law requiring the creation of a state government-managed fund to finance the decommissioning of nuclear generating units within the state of New Hampshire. The New Hampshire Nuclear Decommissioning Finance Committee has established $565 million (in year 2000 dollars) as the decommissioning cost estimate for Seabrook Unit 1, of which UI's share would be approximately $99 million. This estimate assumes the prompt removal and dismantling of the unit at the end of its estimated 36-year energy producing life. Monthly decommissioning payments are being made to the state-managed decommissioning trust fund. UI's share of the decommissioning payments made during 1999 was $3.3 million. UI's share of the fund at December 31, 1999, was approximately $20.5 million. UI will continue to be responsible for its share of the decommissioning funding contributions for Seabrook Unit 1 after the proposed corporate restructuring, in the same manner as UI was responsible for its share of the decommissioning funding contributions prior to the proposed corporate restructuring.

DECOMMISSIONING FUNDING ASSURANCE IN CONNECTICUT

Decommissioning fund contributions, as well as post-retirement safe-shutdown and site-protection costs incurred in preparation for decommissioning, are provided for in Section 16-2451(9) and 16-2451(10) of the Connecticut General Statutes. In accordance with these statutes, the State of Connecticut Department of Public Utility Control (DPUC) has established collections of these amounts by UI in Docket No. 97-01-15RE01, "DPUC Review of Electric Companies Cost of Service And Unbilled Tariffs-Unbundled Bills And SBC." The current decommissioning cost estimate for Millstone Unit 3 is $619 million (in year 2000 dollars), of which UI's share would be approximately $23 million. This estimate assumes the prompt removal and dismantling of the unit at the end of its estimated 40-year energy producing life. Monthly decommissioning payments, based on these cost estimates, are being made to a decommissioning trust fund managed by Northeast Utilities (NU). UI's share of the Millstone Unit 3 decommissioning trust fund as of December 31, 1999, was $7.8 million. UI will continue to be responsible for its share of the decommissioning funding contributions for Millstone Unit 3 after the proposed corporate restructuring, in the same manner as UI was responsible for its share of the decommissioning funding contributions prior to the proposed corporate restructuring.

The NRC staff concludes that methods of providing reasonable assurance for funding the decommissioning trusts discussed in this section are in compliance with the requirements of 10 CFR 50.75(e).

5.0 ANTITRUST REVIEW

The Atomic Energy Act does not require or authorize antitrust reviews of post-operating license transfer applications. Kansas Gas and Electric Co., et al. (Wolf Creek Generating Station, Unit 1), CLI-99-19,49 NRC 441 (1999). Therefore, since the transfer application postdates the issuance of the Millstone Unit 3 and Seabrook Unit 1 operating licenses, no antitrust review is required or authorized.

6.0 MANAGEMENT OF OPERATIONS

UI is a possessory licensee and is not the NRC licensed operator of Millstone Unit 3 and Seabrook Unit 1. The operating licensees, Northeast Utilities for Millstone Unit 3 and North Atlantic Energy Service Corporation for Seabrook Unit 1, will continue to be responsible for the day-to-day operations and for the technical qualifications required by the operating licenses.

The holding company structure will retain UI as a discrete and separate wholly-owned entity. No responsibility for nuclear operations within UI will be changed by the proposed reorganization. Officer responsibilities at the holding company level will be primarily administrative and financial in nature and will not involve operational matters relating to Millstone Unit 3 and Seabrook Unit 1.

After the holding company formation, UI will continue actively to participate in the oversight and non-operational decision making with respect to Millstone Unit 3 and Seabrook Unit 1.

The NRC staff finds that the operators of Millstone Unit 3 and Seabrook Unit 1 will be the same operators after the proposed reorganization as it was before the proposed reorganization. Therefore, the NRC staff has concluded that 10 CFR 50.34(b)(7) requiring information describing the technical qualifications of the operator is not applicable in this application, and that no further information is needed.

7.0 FOREIGN OWNERSHIP, CONTROL, OR DOMINATION

The application states that the proposed restructuring complies with the restrictions in Section 103(d) of the Atomic Energy Act, as amended, and 10 CFR 50.38. Section 50.38 of 10 CFR states that ”Any person who is a citizen, national, or agent of a foreign country, or any corporation, or other entity which the Commission knows or has reason to believe is owned, controlled, or dominated by an alien, a foreign corporation, or foreign government, shall be ineligible to apply for and obtain a license.”

At the time the reorganization becomes effective, Holdings will become the sole holder of UI Common Stock, and the current holders of UI Common Stock (other than shareholders who have exercised their dissenters’ rights) will become holders of Holdings Common Stock on a share-for-share basis. Therefore, immediately following the reorganization, the Holdings Common Stock will be owned by the previous holders of UI Common Stock in substantially the same proportions in which they held UI Common Stock. Based upon currently available information provided by the applicant, shares of UI Common Stock held in foreign accounts represents less than one-tenth of one percent (0.1%) of the total outstanding shares of UI.

Based on the information stated above, the NRC staff finds that the proposed restructuring will not result in UI being owned, controlled or dominated by foreign interests.

8.0 CONCLUSION

In view of the foregoing, the NRC staff concludes that the transfer request as a result of the proposed corporate restructuring of UI, forming a parent company Holdings, leading to an indirect transfer of UI's ownership interests in Millstone Unit 3 and Seabrook Unit 1 should be approved. Based on the above determinations, the NRC staff concludes that UI will be financially qualified to operate and decommission its share of the nuclear units. The NRC staff further finds that as a result of the this proposed corporate restructuring, UI will not become owned, controlled or dominated by an alien, foreign corporation or foreign government. The NRC staff further finds that the decommissioning funding will continue to be the responsibility of UI and that the proposed action is otherwise consistent with applicable provisions of the law, regulations, and orders issued by the Commission pursuant thereto.

Principle Contributor: M. A. Dusaniwskyj

Dated: May 10, 2000