

concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: June 28, 2000.

Karen J. York,

Committee Management Officer.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-461]

Amergen Energy Company, LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to AmerGen Energy Company, LLC (the licensee) for operation of the Clinton Power Station (CPS) located in DeWitt County, Illinois.

The proposed amendment would change the leak rate test frequency for the primary containment feedwater penetrations designed to be sealed by the Feedwater Leakage Control System from a specific test interval of 18 months to a frequency based on the performance-based Primary Containment Leakage Rate Testing Program. Additionally, an editorial change was requested to reverse the order of Technical Specification (TS) Surveillance Requirements 3.6.1.3.11 and 3.6.1.3.12. This change was requested because it would group TS 3.6.1.3.12 with other TS having the same applicability and frequency.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the 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. As required by 10 CFR

50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed change to Technical Specification Surveillance Requirement (SR) 3.6.1.3.12 involves a change in frequency of the combined leakage rate of the primary containment feedwater penetrations that are designed to be sealed by the Feedwater Leakage Control System (FWLCS). Testing performed pursuant to this Surveillance Requirement is not an initiator to any accident previously evaluated. The proposed change does not affect the design, operational characteristics, function or reliability of the FWLCS or the primary containment feedwater penetrations. Further, the change has no impact on plant design or operation, as it is merely a change in the specified frequency for the affected SR. Therefore, the proposed change does not affect any parameters or conditions that may contribute to the initiation of any accidents previously evaluated, and as a result, the probability of initiation of any accident previously evaluated will not be significantly increased.

The proposed change to the specified Frequency for SR 3.6.1.3.12 would permit a longer test interval for this surveillance. An excessively long test interval could result in reduced leak tightness of the feedwater penetrations and, therefore, in reduced effectiveness of the barrier presented by the feedwater penetrations and the FWLCS. However, this potential is precluded by making the SR 3.6.1.3.12 test interval performance based. Such an approach is based on approved industry guidelines reflected in the Primary Containment Leakage Rate Testing Program outlined in Technical Specification 5.5.13. Accordingly, a longer test interval would only be permitted if leak test performance supports the longer interval. It should also be noted that the acceptance criterion for the water-type leak test imposed by SR 3.6.1.3.12 was established on the expected capability of the feedwater penetrations to meet this acceptance criterion. Thus, the proposed change to SR 3.6.1.3.12 will not result in reduced barrier performance of the feedwater penetrations, nor in reduced effectiveness of the FWLCS. These barriers for the prevention or minimization of post-LOCA radioactive release from the containment will not therefore be adversely impacted by the proposed change. The FWLCS and the feedwater penetrations will still be required to be Operable per the Technical Specifications and thus capable of performing their accident mitigation functions assumed in the accident analysis. On this basis, the consequences of any accident previously evaluated are not affected by the proposed change.

Based on the above, the proposed change does not involve a significant increase in the probability or consequences on any accident previously evaluated.

(2) The proposed change would not create the possibility of a new or different kind of

accident from any accident previously evaluated.

Changing the surveillance Frequency of the combined leakage rate of the primary containment feedwater penetrations that are designed to be sealed by the FWLCS does not involve a change in the design, configuration, or method of operation of the plant. The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the method governing normal plant operation. No new accident initiators are introduced as a result of the change in specified surveillance Frequency. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change will not involve a significant reduction in the margin of safety.

The margin of safety related to the proposed change involves the offsite dose consequences that result from the release of radioactive material from the containment following a design basis accident. This release is effected by leakage through the containment, including the feedwater penetrations sealed by the FWLCS. The proposed change to the Frequency for the leakage rate test for these penetrations does not involve a change to the acceptance criteria for the leakage rate test, nor in the effectiveness of the testing since the test interval for the test will be performance based. That is, an acceptable level of reliability (leak tightness) of the feedwater penetrations will be maintained using the performance-based Primary Containment Leakage Rate Testing Program. On this basis, the proposed change does not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public

and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 2, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons

why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no

significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Kevin P. Gallen, Morgan, Lewis & Bockius LLP, 1800 M Street, NW, Washington, DC 20036-5869, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 19, 2000 (U-603378), which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 28th day of June, 2000.

For the Nuclear Regulatory Commission.

Jon B. Hopkins,

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