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CNRO-2014-00010

July 18, 2014

U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attention: Document Control Desk

SUBJECT: Combined License Application Requests for Exemptions

River Bend Station, Unit 3
Docket No. 52-036

- REFERENCES:
1. Entergy Operations, Inc. letter to the NRC, *Application for a Combined License for River Bend Unit 3*, dated September 25, 2008 (ADAMS Accession No. ML082830022)
 2. Entergy Operations, Inc. letter to the NRC, *Grand Gulf Unit 3 and River Bend Station Unit 3 COLA Reviews*, dated January 9, 2009 (ADAMS Accession No. ML090130174)
 3. NRC Letter to Entergy Nuclear, *Staff Review of the Combined License Application for River Bend Station, Unit 3*, dated January 12, 2009 (ADAMS Accession No. ML090080277)
 4. Entergy Nuclear Letter to NRC, *River Bend Station Unit 3 COLA Exemption Requests*, dated September 30, 2013 (ADAMS Accession No. ML13275A066)
 5. NRC letter to Entergy Operations, Inc., *River Bend Unit 3 Combined License Application Exemption from the Requirements of Title 10 of the Code of Federal Regulations Part 50, Appendix E, Section I.5*, dated December 4, 2013 (ADAMS Accession Nos. ML13297A247 and ML13297A248)

Dear Sir or Madam:

In Reference 1, Entergy Operations, Inc. (Entergy) submitted to the NRC an application for a combined license (COL) for River Bend Station, Unit 3 (RBS3). The application is based on the General Electric - Hitachi (GEH) Economic Simplified Boiling Water Reactor (ESBWR) technology.

In Reference 2, Entergy requested the NRC suspend their review of the RBS3 COL application until further notice pending Entergy's re-evaluation of alternative reactor technologies. As requested, the NRC suspended their review activities, as documented in Reference 3. Entergy has not yet requested the review be reactivated.

In Reference 4, Entergy requested from the NRC exemptions from the following regulations:

1. 10 CFR 50 Appendix E, Section I.5, as referenced in 10 CFR 52.79(a)(21), as it pertains to submitting updates to the RBS3 Emergency Plan (EP); and
2. 10 CFR 50.71(e)(3)(iii), as referenced in 10 CFR 52.3(b)(6), as it pertains to submitting updates to the RBS3 Final Safety Analysis Report (FSAR).

These exemptions were granted by the NRC as documented in Reference 5; however, they are set to expire on December 31, 2014.

Since Entergy has not yet requested the RBS3 COL application review be reactivated, Entergy requests exemptions to the above identified regulations be granted to December 31, 2015 or coincident with resuming the review of the RBS3 COL application, whichever comes first. Attachments 1 and 2 provide the bases for each exemption request.

This letter contains no new commitments.

Should you have any questions, please contact Guy Davant at (601) 368-5756.

I declare under penalty of perjury that the foregoing is true and correct; executed on July 18, 2014.

Sincerely,



BSF/ghd

- Attachments:
1. Request for Exemption from Implementation Schedule for Enhancements to Emergency Preparedness Regulations
 2. Request for Exemption from FSAR Update Requirements

cc: Mr. Marc L. Dapas
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ATTACHMENT 1

CNRO-2014-00010

**REQUEST FOR EXEMPTION FROM THE IMPLEMENTATION SCHEDULE FOR
ENHANCEMENTS TO EMERGENCY PREPAREDNESS REGULATIONS**

**REQUEST FOR EXEMPTION FROM THE IMPLEMENTATION SCHEDULE FOR
ENHANCEMENTS TO EMERGENCY PREPAREDNESS REGULATIONS**

I. Proposed Exemption

10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), requires applicants for a combined license (COL) under 10 CFR Part 52, docketed as of the final rule's effective date (November 23, 2011), to demonstrate compliance with this rule no later than December 31, 2013.

Entergy Operations, Inc. (Entergy) requests the NRC grant an exemption from the requirements of 10 CFR 50 Appendix E, Section I.5 pertaining to the River Bend Station, Unit 3 (RBS3) COL application to December 31, 2015 or coincident with resuming the review of the application, whichever comes first. This requested exemption is a schedule change, only, from the requirements of 10 CFR 50 Appendix E, Section I.5.

II. Background

By letter dated September 25, 2008 (ADAMS Accession No. ML082830022), Entergy submitted to the NRC a COL application, in accordance with 10 CFR Part 52, Subpart C, to construct and operate an Economic Simplified Boiling Water Reactor (ESBWR). This facility is to be located at Entergy's River Bend site and designated "River Bend Station, Unit 3". The NRC accepted the application for docketing on December 4, 2008 (ADAMS Accession No. ML083370275).

By letter dated January 9, 2009 (ADAMS Accession No. ML090130174), Entergy requested the NRC suspend the review of the RBS3 COL application and related activities. As requested, the NRC suspended their review activities, as documented in a letter to Entergy dated January 12, 2009 (ADAMS Accession No. ML09008277). The RBS3 COL application remains docketed; however, Entergy has not requested the RBS3 COL application review be reactivated.

By letter dated September 30, 2013 (ADAMS Accession No. ML13275A066) Entergy requested the NRC grant an exemption from the requirements of 10 CFR 50 Appendix E, Section I.5 to submit an update to the RBS3 Emergency Plan (EP). The NRC granted the request in a letter to Entergy dated December 4, 2013 (ADAMS Accession Nos. ML13275A247 and ML13275A248). The exemption is set to expire on December 31, 2014.

III. Exemption Requirements

Pursuant to 10 CFR 50.12(a)(1) and (2), the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when:

- (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and,
- (2) Special circumstances are present.

Pursuant to 10 CFR 50.12(a)(2), in part, "special circumstances" exist if:

- (ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; or
- (v) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

IV. Basis for the Exemption

A. Authorized by Regulation

10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR 50 Appendix E, Section I.5 without violating the Atomic Energy Act of 1954, as amended, or the NRC's regulations. This exemption request is for temporary relief from the scheduling requirement of 10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21). Specifically, the exemption would allow the applicant to demonstrate compliance with the emergency preparedness enhancements of 10 CFR 50 Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), by submitting an updated RBS3 EP by December 31, 2015 or coincident with resuming the review of the RBS3 COL application, whichever comes first.

B. No Undue Risk to Public Health and Safety

The underlying purpose of 10 CFR 50 Appendix E, Section I.5 is to provide timely, comprehensive update of the EP associated with a COL application in order to support an effective and efficient review by NRC staff and issuance of the staff's safety evaluation report. Because NRC review of the RBS3 COL application is currently suspended, the update to the RBS3 EP, if submitted, would not be reviewed.

The requested exemption is solely administrative in nature in that it pertains to the schedule for submitting to the NRC revisions to an application under 10 CFR Part 52 for which a license has not been granted; hence, there are no safety implications. Specifically, there are no new health or safety issues created and no increase in the probability of postulated accidents or their consequences. Therefore, there is no undue risk to public health and safety.

C. Consistent with Common Defense and Security

This exemption requesting a schedule change has no relation to security issues. In addition, the common defense and security are not impacted by this exemption request.

D. Special Circumstances

Special circumstances are present.

The purpose of 10 CFR 50 Appendix E, Section I.5 is to provide timely, comprehensive updates of the EP associated with a COL application in order to support an effective and efficient review by NRC staff and issuance of the staff's safety evaluation report. As stated

above, at Entergy's request the NRC has suspended their review of the RBS3 COL application. Entergy has not yet requested the review be reactivated; therefore, submitting an updated RBS3 EP would be of no value and would serve no purpose of the regulation.

Entergy is requesting only temporary relief from 10 CFR 50 Appendix E, Section I.5 to December 31, 2015 or coincident with resuming the review of the RBS3 COL application, whichever comes first, and has made good faith efforts to comply with the regulation. This action fulfills the purpose of 10 CFR 50 Appendix E, Section I.5 to support an effective and efficient review by NRC staff and issuance of the staff's safety evaluation report.

The requested exemption is a schedule change, only, from the requirement of 10 CFR 50 Appendix E, Section I.5 to demonstrate compliance with the regulation.

V. Conclusion

Based on the above discussions, Entergy requests the NRC grant an exemption from the requirements of 10 CFR 50 Appendix E, Section I.5 pertaining to the RBS3 COL application to December 31, 2015 or coincident with resuming the review of the application, whichever comes first.

ATTACHMENT 2

CNRO-2014-00010

REQUEST FOR EXEMPTION FROM FSAR UPDATE REQUIREMENTS

REQUEST FOR EXEMPTION FROM FSAR UPDATE REQUIREMENTS

I. Proposed Exemption

10 CFR 50.71(e)(3)(iii), as referenced in 10 CFR 52.3(b)(6), requires applicants for a combined license (COL) under 10 CFR Part 52, during the period from docketing of the COL application until the NRC makes a finding under 10 CFR 52.103(g) pertaining to facility operation, submit an annual update to the application's Final Safety Analysis Report (FSAR).

Entergy Operations, Inc. (Entergy) requests the NRC grant an exemption from the requirements of 10 CFR 50.71(e)(3)(iii) pertaining to the River Bend Station, Unit 3 (RBS3) COL application to December 31, 2015 or coincident with resuming the review of the application, whichever comes first. This requested exemption is a schedule change, only, from the requirements of 10 CFR 50.71(e)(3)(iii).

II. Background

By letter dated September 25, 2008 (ADAMS Accession No. ML082830022), Entergy submitted to the NRC a COL application, in accordance with 10 CFR Part 52, Subpart C, to construct and operate an Economic Simplified Boiling Water Reactor (ESBWR). This facility is to be located at Entergy's River Bend site and designated "River Bend Station, Unit 3". The NRC accepted the application for docketing on December 4, 2008 (ADAMS Accession No. ML083370275).

By letter dated January 9, 2009 (ADAMS Accession No. ML090130174), Entergy requested the NRC suspend the review of the RBS3 COL application and related activities. As requested, the NRC suspended their review activities, as documented in a letter to Entergy dated January 12, 2009 (ADAMS Accession No. ML09008277). The RBS3 COL application remains docketed; however, Entergy has not requested the RBS3 COL application review be reactivated.

By letter dated September 30, 2013 (ADAMS Accession No. ML13275A066), Entergy requested an exemption from the requirements of 10 CFR 50.71(e)(3)(iii) to submit the annual update to the RBS3 FSAR while the COL application review is suspended. The NRC granted the request in a letter to Entergy dated December 4, 2013 (ADAMS Accession Nos. ML13297A247 and ML13297A248). This exemption is set to expire on December 31, 2014.

III. Exemption Requirements

Pursuant to 10 CFR 50.12(a)(1) and (2), the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when:

- (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and,
- (2) Special circumstances are present.

Pursuant to 10 CFR 50.12(a)(2), in part, "special circumstances" exist if:

- (ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; or
- (iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated; or
- (v) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

IV. Basis for the Exemption

A. *Authorized by Law*

10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR 50.71(e)(3)(iii) without violating the Atomic Energy Act of 1954, as amended, or the Commission's regulations. This exemption request is for temporary relief from the scheduling requirement of 10 CFR 50.71(e)(3)(iii). Specifically, the exemption would allow Entergy to submit the RBS3 FSAR annual update by December 31, 2015 or coincident with resuming the review of the RBS3 COL application, whichever comes first.

B. *No Undue Risk to Public Health and Safety*

The underlying purpose of 10 CFR 50.71(e)(3)(iii) is to provide timely, comprehensive updates of the FSAR associated with a COL application in order to support an effective and efficient review by NRC staff and issuance of the staff's safety evaluation report. Because NRC review of the RBS3 COL application is currently suspended, the update to RBS3 FSAR, if submitted, would not be reviewed by the NRC.

The requested exemption is solely administrative in nature in that it pertains to the schedule for submitting to the NRC revisions to an application under 10 CFR Part 52 for which a license has not been granted; hence, there are no safety implications. Specifically, there are no new health or safety issues created and no increase in the probability of postulated accidents or their consequences. Therefore, there is no undue risk to public health and safety.

C. *Consistent with Common Defense and Security*

This exemption requesting a schedule change has no relation to security issues. In addition, the common defense and security are not impacted by this exemption request.

D. *Special Circumstances*

Special circumstances are present.

10 CFR 50.71(e)(3)(iii), requiring annual FSAR update, does not address, and does not appear to have contemplated, a situation in which: (1) the applicant suspended its pursuit of a COL; and (2) the NRC staff has suspended any and all review of the COL application, including the FSAR. As such, providing an annual update to the FSAR would result in an undue hardship and unnecessary costs to Entergy.

The purpose of 10 CFR 50.71(e)(3)(iii) is to provide timely, comprehensive updates of the FSAR associated with a COL application in order to support an effective and efficient review by NRC staff and issuance of the staff's safety evaluation report. As stated above, at Entergy's request the NRC has suspended their review of the RBS3 COL application. Entergy has not yet requested the review be reactivated; therefore, submitting an updated RBS3 FSAR would be of no value and would serve no purpose of the regulation.

The FSAR is an extensive document and updating the document will require review and evaluation of changes made to the reference ESBWR design certification for applicability to the RBS3 COL application, along with updating of general background information in the RBS3 COL application. Despite the effort to provide the updated FSAR, the purpose of 10 CFR 50.71(e)(3)(iii) would go unfulfilled.

Entergy is requesting only temporary relief from the requirements of 10 CFR 50.71(e)(3)(iii) to December 31, 2015 or coincident with resuming the review of the RBS3 COL application, whichever comes first, and has made good faith efforts to comply with the regulation. This action fulfills the purpose of 10 CFR 50.71(e)(3)(iii) to support an effective and efficient review by NRC staff and issuance of the staff's safety evaluation report.

V. **Conclusion**

Based on the above discussions, Entergy requests the NRC grant an exemption from the requirements of 10 CFR 50.71(e)(3)(iii) pertaining to the RBS3 COL application to December 31, 2015 or coincident with resuming the review of the application, whichever comes first.