

September 17, 2015

NOTE

FROM: Christopher Ryder, Licensing Project Manager

SUBJECT: Letter of Credit and Standby Trust Agreement As An Alternate Means of Financial Assurance to the Parent Company Guarantee

Date and Time

Thursday, July 30, 2015, at 10:30 AM (eastern)

Background

For several years, the Westinghouse Electric Company LLC (Westinghouse) has been using the parent company guarantee (PCG) as financial assurance for decommissioning. Title 10 of the *Code of Federal Regulations* (10 CFR), Part 30, Section II.C.1 requires a licensee to annually demonstrate their continued eligibility to use the PCG by submitting documents with 90 days of the close of the fiscal year. Westinghouse was granted an exemption (Ref. **Error! Reference source not found.**) allowing the required documentation to be submitted 120-days after the close of the fiscal year.

In June 2015, Westinghouse had informed the NRC staff (Refs. **Error! Reference source not found.** and **Error! Reference source not found.**) that their parent company, Toshiba Corporation (Toshiba) would be unable to provide necessary documentation because of publically known internal investigations into accounting practices. As required by 10 CFR, Part 30, Appendix A, Section II.C.2, Westinghouse had decided to use, as an alternate means of financial assurance, a letter of credit as the alternate means. Westinghouse requested a conference call to inform the staff at the U.S. Nuclear Regulatory Commission (NRC) of delays in establishing a letter of credit.

Participants

NRC	Westinghouse
Christopher Ryder ^(a)	Michele
Christopher McKenney ^(b)	Gutman ^(d)
Kenneth Kline ^(c)	Douglas
	Weaver ^(e)
	Wayne Bognar ^(f)

Notes

- a. Licensing Project Manager
- b. Chief, Performance Assessment Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards
- c. Technical Reviewer
- d. Deputy General Counsel
- e. Vice President, Nuclear Regulatory Affairs
- f. Acting Treasury Director

Discussion

Westinghouse stated that the previously conveyed expectations for Toshiba to provide Westinghouse with the necessary documentation have not changed. Westinghouse expects the internal-investigation at Toshiba to be completed in mid-August. Westinghouse expects to submit documentation to demonstrate their continued eligibility to use the PCG after September 2015. The documentation is relevant to both fiscal year 2014 and 2015.

Westinghouse stated that Toshiba continues to retain its bond rating, but the corporation was placed on credit watch by Standard & Poors. The PCG is still effective, even though Westinghouse is unable to submit documentation to demonstrate their continued eligibility to use the PCG as required.

When a parent company no longer meets financial requirements, 10 CFR Part 30, Appendix A, Section II.C.2 requires a licensee to notify the Commission of its intent to establish alternate financial assurance within 90 days after the end of the fiscal year for which the year-end financial data show that the parent company no longer meets financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of the fiscal year.

The close of the fiscal year at Westinghouse is March 31st of each year. Thus, the alternate means of financial assurance is due by July 29, 2015. Westinghouse had intended to submit the letter of credit and revised standby trust agreement by July 29, 2015. For example, on July 23, 2015, while finalizing the letter of credit, Westinghouse asked if a letter of credit with a 6-month term with automatic extensions of 6 months, unless providing a 90-day written notice to terminate, would meet the requirements. On July 24, 2015, the NRC staff responded that a 6-month open-ended term would meet the requirements.

On Tuesday, July 28, 2015, Westinghouse became aware of a delay in submitting the letter of credit. On Wednesday, July 29, 2015, Westinghouse requested a conference call to inform the NRC staff of the delay. The NRC staff had the subject conference call on July 31, 2015. -----

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----- Therefore, Westinghouse intends to submit the letter of credit by mid-August 2015, not July 29, 2015, as intended.

Westinghouse inquired if, while the letter of credit is being established during the next two weeks, the NRC staff expects any other actions, such as documenting the reasons for the delay. The NRC staff stated that efforts at Westinghouse should be spent in establishing the letter of credit; the NRC staff will document the conference call.

Follow-Up Actions

Westinghouse will keep the NRC staff informed of establishing the letter of credit.

References

1. Letter from M. Bailey, U.S. Nuclear Regulatory Commission, "Approval Of Westinghouse Exemption From Title 10 Of The Code Of Federal Regulations Part 30, Appendix A, Section li.C.1 (Technical Assignment Control Number L33303)", June 19, 2014. ADAMS accession number ML14114A534.
2. Note from C. Ryder, U.S. Nuclear Regulatory Commission, "Summary of Conference Call: Continued Eligibility to Use the Parent Company Guarantee As Financial Assurance of Decommissioning", ADAMS accession number ML15201A457.
3. Letter from M. Gutman, Westinghouse Electric Company LLC, "Westinghouse Electric Company LLC Parent Guarantee - "Request for Additional Information (Technical Assignment Control Number L33343) Regarding Fiscal Year 2014 Submission" and Fiscal Year 2015 Submission", June 12, 2015. ADAMS accession number ML15177A014.