

October 11, 1996

Mr. L. J. Maas
Manager, Regulatory Compliance
Siemens Power Corporation
2101 Horn Rapids Road
Richland, Washington 99352-0130

SUBJECT: DECOMMISSIONING FINANCIAL ASSURANCE DOCUMENTATION (TAC NO. L30884)

Dear Mr. Maas:

This is in reference to your Decommissioning Funding Plan (DFP) financial instruments, dated June 6, 1996, for decommissioning of the Richland manufacturing facility.

We have completed a review of the revised financial instruments and have identified a number of deficiencies, which are described in the enclosure to this letter. The additional information should be provided within 30 days of the date of this letter. Before you submit the responses, you are requested to participate in a conference call or meeting with the Fuel Cycle Licensing Branch, the Low-Level Waste and Decommissioning Projects Branch, and their contractor ICF, Inc., to discuss your responses to the review comments. I will contact you later in the week of October 21, 1996, to set up this conference call or meeting. Please reference the above TAC No. in future correspondence related to the request.

If you have any questions or need further information, please contact me at (301) 415-8111.

Sincerely,

Original signed by: MTokar for

Mary Thoma Adams
Licensing Section 2
Licensing Branch
Division of Fuel Cycle Safety
and Safeguards, NMSS

Docket 70-1257
License SNM-1227

Enclosure: Review of Decommissioning
Funding Plan Parent
Company Guarantee

DISTRIBUTION: w/encls (Control No. 2EOS)

Docket 70-1257

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

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Siemens Power Corporation
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If you have any questions or need further information, please contact me at (301) 415-8111.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary Thoma Adams", is written over the typed name.

Mary Thoma Adams
Licensing Section 2
Licensing Branch
Division of Fuel Cycle Safety
and Safeguards, NMSS

Docket 70-1257
License SNM-1227

Enclosure: Review of Decommissioning
Funding Plan Parent
Company Guarantee

REQUEST FOR ADDITIONAL INFORMATION
Siemens Power Corporation
Docket No. 70-1257

Siemens Power Corporation (SPC) in Bellevue, Washington, submitted a parent company guarantee/financial test from Siemens Aktiengesellschaft in the amount of \$27,000,000, along with an unexecuted amendment to a previously-submitted standby trust agreement.¹ The parent company guarantee is intended to replace two previously-submitted Letters of Credit (see Other Issue a). The submission addresses decommissioning costs of \$27,000,000 for license SNM-1227 issued under 10 CFR Part 70. Upon review of the submission, NRC has determined that it should be modified in the following way:

- (1) Submit an alternative financial assurance mechanism, or clarify the guarantor's ability to pass the financial test.

If SPC chooses to use the financial test by the parent company guarantor (see Recommendation 1), then NRC has determined that the following actions are necessary:

- (2) Revise Recitals 8 and 9 of the parent guarantee agreement to specify recommended deadlines regarding annual financial test updates and alternative financial assurance (*Regulatory Guide 3.66*, page 4-43);
- (3) Notarize the parent guarantee (*Regulatory Guide 3.66*, page 4-44); and
- (4) Execute the amendment to the standby trust agreement.

These recommendations and other issues are discussed below.

- (1) **Submit an Alternative Financial Assurance Mechanism, or Clarify the Guarantor's Ability to Pass the Financial Test**

¹ ICF reviewed several previous submissions from the licensee and reported recommendations to NRC in memoranda dated September 2, 1993, November 15, 1994, March 16, 1995, and June 1, 1995. ICF also reviewed a submission from the licensee's predecessor, Advanced Nuclear Fuels Corporation, and reported recommendations to NRC in a memorandum dated January 4, 1991.

ENCLOSURE

The guarantor's ability to pass the required financial test is uncertain because it appears that the guarantor's financial statements have been prepared in accordance with German generally accepted accounting principles, rather than U.S. generally accepted accounting principles.² Although NRC regulations and guidance do not address the issue of whether foreign accounting practices are acceptable for purposes of NRC's financial test, the financial test was developed based on an analysis of financial data for U.S. firms; consequently, NRC's financial test may not be applicable or effective when used in conjunction with financial data, such as the guarantor's, that were prepared in accordance with foreign accounting practices.

Because of the uncertainty regarding the applicability of German accounting practices to NRC's financial test, SPC should either use an alternative financial assurance mechanism or demonstrate that use of German generally accepted accounting principles does not reduce the stringency of NRC's financial test.

If SPC chooses to demonstrate that use of German generally accepted accounting principles does not reduce the stringency of the financial test, SPC must also implement the other recommendations discussed below.

(2) Revise Recitals 8 and 9 of the Parent Guarantee Agreement to Specify Recommended Deadlines Regarding Annual Financial Test Updates and Alternative Financial Assurance (*Regulatory Guide 3.66*, page 4-43)

Recital 8 of the submitted guarantee agreement states that the guarantor agrees to submit revised financial statements, financial test data, and a special auditor's report and reconciling schedule annually within 120 days of the close of the guarantor's fiscal year. However, Recital 8 of the recommended wording in *Regulatory Guide 3.66*, page 4-43, states that the guarantor should agree to update these materials within 90 days of the close of its fiscal year. Similarly, Recital 9 of the submitted guarantee agreement states that if the guarantor fails to meet the financial test criteria at the end of any fiscal year, the licensee will notify NRC within 120 day of the end of the fiscal year of its intent to provide alternative financial assurance, and the guarantor will provide alternative financial assurance within 150 days of the end of the fiscal year if the licensee has not done so. Recital 9 of the recommended wording in *Regulatory Guide 3.66*, page 4-43, allows only 90 days and 120 days, respectively, for notifying NRC and for providing alternative financial assurance.

With regard to the extended deadlines specified in the submitted guarantee

² German generally accepted accounting principles are referenced twice in the special report from the guarantor's certified public accountant (KPMG Deutsche Treuhand-Gesellschaft AG Wirtschaftsprüfungsgesellschaft). In addition, the accountant's opinion on the guarantor's 1995 financial statements states that "the consolidated financial statements . . . comply with the German legal provisions." This statement is also consistent with the use of German accounting principles.

agreement, the submission states that "the time needed by Siemens A.G. to consolidate its worldwide financial reports makes this extra 30 days necessary." It is not clear, however, why the guarantor's need for additional time in this particular case would justify NRC's accepting less protective provisions than NRC would accept from a U.S. guarantor (including U.S. multinationals). The deadlines recommended in *Regulatory Guide 3.66* help ensure that, each year, the guarantor promptly determines whether it still passes the financial test and, if not, that alternative assurance is obtained promptly by the licensee or the guarantor. The deadlines also ensure that these actions are taken before the guarantor's financial condition can deteriorate to the point that it may be unable to provide alternative financial assurance. The guarantee should be revised to specify the recommended limits for financial test updates and alternative assurance, as recommended by *Regulatory Guide 3.66*, 4-43.

(3) Notarize the Parent Guarantee (*Regulatory Guide 3.66*, page 4-44)

Regulatory Guide 3.66, page 4-44, recommends that the parent company guarantee be attested or acknowledged by a witness or notary. The submitted guarantee is not notarized.³ To avoid the possibility that the guarantee is inadequate under applicable laws, the parent guarantee signature should be notarized.

(4) Execute the Amendment to the Standby Trust Agreement

The submitted amendment to the standby trust agreement, which simply notes the substitution of the parent company guarantee for the Letters of Credit, is appropriate but is not yet effective because it has not been executed. The amendment should be executed in accordance with the amendment provisions in the standby trust agreement.

³ The submission includes a copy of a notarized certificate naming the individuals authorized to represent the parent company in entering into the guarantee. However, this certificate does not acknowledge or attest to the guarantee.