



50-209-029

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

October 28, 1996

Mr. James A. Kay  
Principal Licensing Engineer  
Yankee Atomic Electric Company  
580 Main Street  
Bolton, Massachusetts 01740-1398

SUBJECT: COMPLETION OF HEARING PROCESS REGARDING APPROVAL OF DECOMMISSIONING  
PLAN FOR THE YANKEE NUCLEAR POWER STATION

Dear Mr. Kay:

By Order dated October 18, 1996, (CLI-96-9) the Commission denied a petition for review of a Licensing Board decision (LBP-96-18) which granted Yankee Atomic Electric Company's (YAEC's) Motion for Summary Disposition in a hearing convened to determine whether an order approving the decommissioning plan for the Yankee Nuclear Power Station (YNPS) should be approved. The YNPS decommissioning plan had previously been reviewed and approved by the NRC Staff in February 1995. Following a decision of the United States Court of Appeals for the First Circuit in *Citizens Awareness Network v. NRC*, 59 F.3d 284 (1st Cir.1995), the Commission determined that it would reinstate its pre-1993 interpretation of its regulations. Accordingly, YAEC was prohibited from conducting further major decommissioning activities pending approval of the decommissioning plan after completion of the hearing process. See CLI-95-14, 42 NRC 130 (1995).

Pursuant to the regulations in effect at the time this proceeding commenced, upon expiration of the stay issued in CLI-96-9, and absent a judicial stay of the Commission's Order, YAEC would be entitled to an order approving the YNPS decommissioning plan. Since commencement of the adjudicatory hearing to determine if the YAEC decommissioning plan should be approved, the Commission has amended its decommissioning regulations. See Decommissioning of Nuclear Reactors, 61 Fed. Reg. 39278 (July 29, 1996) (to be codified at 10 C.F.R. Parts 2, 50, and 51). The amended section 50.82 provides that for power reactor licensees who, before the effective date of this rule, have submitted a decommissioning plan for approval, the plan is to be considered the Post-Shutdown Decommissioning Activities Report (PSDAR). 61 Fed. Reg. at 39301. The amended rule further provides that for those licensees whose decommissioning plan approval activities have been relegated to notice of opportunity for a hearing, the public meeting and 90-day delay of major decommissioning activities requirements of the amended rule do not apply. *Id.* Thus, pursuant to 10 C.F.R. § 50.82, as amended, the YNPS decommissioning plan is considered to be a PSDAR to which the public meeting and 90-day hold on decommissioning activities do not apply. Also, the decommissioning cost estimate submitted as part of the YNPS decommissioning plan is considered to be the site-specific cost estimate required by 10 C.F.R.

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§ 50.82(a)(8)(i)(C)(iii). Therefore, since the applicable administrative stay expired, decommissioning activities may be conducted at YNPS in accordance with the YNPS PSDAR, pursuant to the amended decommissioning regulations referenced above.

Please contact me if you have any questions regarding this letter.

Sincerely,

Original signed by:

Morton B. Fairtile, Senior Project Manager  
Non-Power Reactors and Decommissioning  
Project Directorate  
Division of Reactor Program Management  
Office of Nuclear Reactor Regulation

Docket No. 50-029

cc: See next page

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§ 50.82(a)(8)(i)(C)(iii). Therefore, since the applicable administrative stay expired, decommissioning activities may be conducted at YNPS in accordance with the YNPS PSDAR, pursuant to the amended decommissioning regulations referenced above.

Please contact me if you have any questions regarding this letter.

Sincerely,

*Morton B. Fairtile*

Morton B. Fairtile, Senior Project Manager  
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