

~~OUO—Security Related Information~~

March 18, 2022

Dear Mr. Van Noordennen,

I am responding to the TMI-2 Solutions' September 21, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21267A505) supplement to the Three Mile Island Nuclear Station – Unit 2 (TMI-2) May 13, 2021, license amendment request (LAR) for modification License Condition 2.C.(2), "Physical Protection."

In your September 21, 2021, submittal, it appears that Attachment 1, "No Significant Hazards Consideration," and Attachment 3, "List of Regulatory Commitments" should not be marked SRI 10 CFR 2.390. Please confirm whether these determinations are correct.

On page 3 of 5 of your September 21, 2021, supplement, TMI-2 Solutions states:

"Attachment 3 provides a commitment to provide the NRC a copy of the revised Security Agreement between TMI-1 (Exelon) and TMI-2 (TMI-2 Solutions) when it is finalized , or if an agreement is not reached, TMI-2 Solutions will perform those required security activities prior to Exelon transitioning from a Part 73 to a Part 37 security program in the plant area."

Further, in Attachment 3, of the September 21, 2021, supplement, TMI-2 Solutions makes two regulatory commitments in the table. The NRC is not able to determine "scheduled completion date" for both commitments without knowing the date that TMI I Unit 1 will cease services to TMI-2.

TMI-2 Solutions states in its September 21, 2021, supplement that:

"With approval of Reference 2 (TMI-1 ISFSI Only Physical Security Plan), TMI-2 will no longer be part of the TMI-1 Protected Area and thus current TMI-2 License Condition 2.C.(2) will no longer be valid."

It is unclear to the NRC what the above statement means with regard to TMI-1 providing the current security services to TMI-2. Your statement implies that TMI-1 will cease providing services to TMI-2 upon the TMI-1 ISFSI Only Physical Security LAR approval. NRC wishes to point out that such a LAR, if approved, would only be effective upon completion of the spent fuel transfer campaign, and there would be an implementation period (90 days, as requested by TMI-1).

As you are aware, TMI-2 Solutions' May 13, 2021, Physical Security LAR, as supplemented on September 21, 2021, has not been accepted for detailed technical review. Since we are still in the process of an acceptance review, a review schedule has not yet been established. Upon acceptance, detailed technical reviews of this type may take more than six months to complete, assuming all the information has been submitted. Also, Regional Inspection staff will need to access the acceptability of your Part 37 program, after Headquarters completes its detailed technical review.

Please clarify by March 31, 2022, the commitment dates (Option 1- TMI-2 implementing its own 10 CFR 73.67 and Part 37 Program and Option 2 TMI-2 and TMI-1 Implementing the 10 CFR 73.67 and Part 37 Program) to the NRC by March 31, 2022. Also, due to the passage of time since you submitted your LAR and the fact that the spent fuel transfer campaign is scheduled to be completed in early summer 2022, consider providing the information to NRC "at least 90 days prior to ..." instead of "90 days prior to ..."

Based upon that dates you provide for answering the above clarification request, the NRC would need the following information for option 1 or option 2 and whether these options are still viable:

1. TMI-2 implementing its own 10 CFR 73.67 and Part 37 program.
 - a. **License Condition** – *TMI-2 utilizes a site security plan that is compliant with 10 CFR Part 37 "Physical protection of category 1 and category 2 quantities of radioactive material" to implement the requirements for 10 CFR 73.67 and Part 37 material.*
 - b. Revise the **10 CFR 73.67/Part 37 matrix** to reflect that its physical security program will be solely implemented by TMI-2.
 - c. Revise **matrix** to identify how requirements are met with TMI-2 implementation solely.
 - d. Revise the 90-day **notification** to be only provided by TMI-2 that will communicate its program is fully implemented and ready for inspection.
 - e. Revise the regulatory **commitment table** to reflect the TMI-2 implementation of its physical protection program. Remove the first commitment that reflects that TMI-1 & 2 implement the physical protection program for the site.
2. TMI-1 and TMI-2 implementing the 10 CFR 73.67 and Part 37 program
 - a. **TMI-2 License Condition** – *TMI-1 security implements portions of the TMI-2 security for the implementation of 10 CFR Part 37 "Physical protection of category 1 and category 2 quantities of radioactive material" to meet the requirements for 10 CFR 73.67 and Part 37 material. TMI-2 describes in the security plan the portions that are implemented for TMI-1 security. OR Instead, TMI-1 could place the areas that they support TMI-2 into their site physical security plan (10 CFR 73.55 plan) that describes the security activities that implement Part 37 and 10 CFR 73.67 requirements. Constellation Energy Generation would need to submit a written request to the NRC if Constellation Energy Generation wanted to pursue this.*
 - b. **Service Level Agreement** that provides the details for what services TMI-1 is performing for TMI-2.
 - c. Revise the **10 CFR 73.67/Part 37 matrix** to identify how requirements are met with TMI-1 & 2 implementation.
 - d. Revise the regulatory **commitment table** to reflect that TMI-1 & 2 implement the 10 CFR 73.67 and Part 37 program. Remove the regulatory table entry that reflects sole implementation of the 10 CFR 73.67 program by TMI-2.

Providing, the information, does not guarantee acceptance nor the NRC's ability to complete a detailed technical review by May 2022 as you have requested or to align our review with the

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current TMI-1 plans. Upon receiving your response, NRC will determine whether to accept your application.

If you have any questions, please contact me.

Amy M. Snyder, Senior Project Manager
NMSS/DUWP/RBD