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

August 30, 2022

John T. Sauger
President and Chief Nuclear Officer
TMI-2 Solutions, LLC
121 West Trade Street, Suite 2700
Charlotte, NC 28202

SUBJECT: THREE MILE ISLAND STATION, UNIT NO. 2 – ISSUANCE OF AMENDMENT
FOR REQUESTED LICENSING ACTION REGARDING REVISION TO LICENSE
CONDITION 2.C.(2), PHYSICAL PROTECTION (EPID: L-2021-LLA-0103)

Dear John Sauger:

The U.S. Nuclear Regulatory Commission (NRC) has issued Amendment No. 65 to Possession Only License (POL) No. DPR-73 for Three Mile Island Station, Unit No. 2 (TMI-2). This amendment is issued in response to the TMI-2 Solutions, LLC (TMI-2 Solutions) application dated May 13, 2021, Agencywide Documents Access and Management System (ADAMS) Accession No. [ML21144A262](#) (non-public), as supplemented, on September 21, 2021 ([ML21267A505](#) (public) and [ML21267A504](#) (non-public)), and on March 31 ([ML22102A304](#) Pkg. (public)), April 28 ([ML22125A013](#) (public)), May 3 ([ML22125A014](#) Pkg. (non-public)), May 9 ([ML22138A281](#) (non-public)), May 10 ([ML22131A138](#) (public)), June 9 ([ML22164A029](#) Pkg. (non-public)), July 13 ([ML22199A078](#) Pkg. (non-public)), July 19 ([ML22203A107](#) (public) and [ML22203A108](#) (non-public)), and August 1, 2022 ([ML22214A048](#) (public)), for TMI-2.

In its May 13, 2021, application, TMI-2 Solutions requested NRC review and approve a proposed deletion of License Condition 2.C.(2), Physical Protection, for the POL No. DPR-73 in support of the TMI-Station Independent Spent Fuel Storage Installation (ISFSI) Only Physical Security Plan. In its March 31, 2022, supplement, TMI-2 Solutions stated that TMI-2 Solutions will develop a Materials Security Plan document (its own plan), instead of the site physical security, guard training and qualification, and safeguards contingency plans maintained by Three Mile Island Station, Unit No. 1 (TMI-1). Instead of deleting License Condition 2.C.(2), TMI-2 Solutions proposed a modification to License Condition 2.C.(2), Physical Protection, for POL No. DPR-73 that would revise License Condition 2.C.(2), Physical Protection, to refer to a Materials Security Plan specific to TMI-2 that is compliant with Title 10 of the *Code of Federal Regulations* (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, "[Licensee fixed site and in-transit requirements for the physical protection of special nuclear material of moderate and low strategic significance](#)," and Part 37 material.

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On June 1, 2022 ([ML22154A187](#)), TMI-2 Solutions provided written notification for implementation of the TMI-2 Materials Security Plan. TMI-2 Solutions stated it will coordinate implementation to coincide with the TMI-1 ISFSI Only Security Plan timeline as described in Constellation Energy Generation's April 29, 2021 license amendment request for TMI-1 ([ML21145A183](#)) and subsequent TMI-1 submittals.

On June 28, 2022, the license amendment request; opportunity to comment, request a hearing, and petition for leave to intervene; and order imposing procedures was published in the *Federal Register* (FR) ([87 FR 38429](#)). No comments or requests were received.

The NRC staff consulted with the Commonwealth of Pennsylvania on July 8, 2022 ([ML22189A203](#)), regarding the proposed no significant hazard determination for the proceeding. The Commonwealth of Pennsylvania responded on July 21, 2022 ([ML22208A049](#)), stating that it had no comment on the application.

The NRC staff concludes that there will be no significant construction impacts from a revision of License Condition 2.C.(2), Physical Protection, to refer to a security plan specific to TMI-2 that is compliant with 10 CFR Part 37 to implement the requirements for 10 CFR 73.67 and Part 37 material. Part 37 plans are not approved by the NRC, but instead are reviewed by the NRC Region I inspection staff responsible for Part 37 and Physical Security for compliance with the regulations. NRC concludes that, in accordance with 10 CFR 51.22(c)(12), this action is categorically excluded from the requirement for an environmental assessment or environmental impact statement. The reason 10 CFR 51.22(c)(12)(ii) applies is that the proposed action relates solely to safeguards matters, i.e., modifications to systems used for security and/or materials accountability and does not involve any significant construction impacts. The action is to revise License Condition 2.C.(2), Physical Protection.

For the reasons set forth in the safety evaluation in Enclosure 2 (nonpublic) to this letter, the NRC staff has determined that the modification of License Condition 2.C.(2), Physical Protection, to refer to a security plan specific to TMI-2 will implement Part 37 requirements and address the applicable portions of the 10 CFR 73.67 requirements that are not covered by Part 37. This modification will ensure that TMI-2 Solutions continues to meet the applicable physical security requirements.

The amendment approving the modification of POL No. DPR-73 License Condition 2.C.(2), Physical Protection, is provided in Enclosure 1 to this letter. Enclosure 2 contains the NRC staff's associated safety evaluation which includes proprietary information and should be protected from public disclosure. The Notice of Issuance will be forwarded to the Office of the *Federal Register* for publication.

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In accordance with 10 CFR 2.390, "[Public inspections, exemptions, requests for withholding](#)," of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of ADAMS. ADAMS is accessible from the NRC Web site at <https://www.nrc.gov/reading-rm/adams.html>.

If you have any questions, please contact me at 301-415-6822, or via email at Amy.Snyder@nrc.gov.

Sincerely,

 Signed by Snyder, Amy
on 08/30/22

Amy M. Snyder, Senior Project Manager
Reactor Decommissioning Branch
Division of Decommissioning, Uranium Recovery
and Waste Programs
Office of Nuclear Material Safety
and Safeguards

Docket No. 50-320

Enclosures:
As stated

cc: via TMI-2 Listserv (w/o Enc. 2)
Tim Devik, TMI-2 Solutions Trdevik@energysolutions.com (w/o Enc. 2)
Frank Helin, TMI-2, fjhelin@energysolutions.com (w/o Enc. 2)

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License Amendment No. 65 DATE August 30, 2022

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