

July 29, 1994

Mr. T. G. Broughton
Vice President and Director, TMI
GPU Nuclear Corporation
P.O. Box 480
Middletown, Pennsylvania 17057-0191

Dear Mr. Broughton:

SUBJECT: EXEMPTION FROM THE REQUIREMENTS OF 10 CFR 140.11(a)(4) FOR THE THREE MILE ISLAND NUCLEAR STATION, UNIT 2 (TMI-2) (TAC NO. M88362)

Your letter dated October 28, 1993, General Public Utilities (GPU) Nuclear Corporation requested an exemption from the secondary financial protection requirements of the Price-Anderson Act. The Commission has issued the enclosed exemption from the requirements of 10 CFR 140.11(a)(4) in which the exemption from participation in the industry retrospective rating plan (secondary level financial protection) is granted for TMI-2.

This exemption is based upon staff requirements memorandum (SRM) dated July 13, 1993, SECY-93-127, "Financial Protection Required of Licensees of Large Nuclear Power Plants During Decommissioning," May 1993. The SRM instructed the staff to allow a reduction in the amount of financial protection required of licensees of large nuclear power plants that have been prematurely shut down. The reduction in financial protection contains the provision for withdrawal from participation in the industry retrospective rating plan.

The Commission has determined, pursuant to 10 CFR 140.8, that this exemption is authorized by law and is otherwise in the public interest. The exemption is enclosed and is being forwarded to the Office of the Federal Register for publication. A copy of the Environmental Assessment and Finding of No Significant Impact, which has been published in the Federal Register, is also enclosed.

Sincerely,

ORIGINAL SIGNED BY

Michael T. Masnik, Senior Project Manager
Non-Power Reactors and Decommissioning
Project Directorate
Division of Operating Reactor Support
Office of Nuclear Reactor Regulation

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Enclosures:

1. Exemption
2. Environmental Assessment and Finding of No Significant Impact

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20545-0001

July 29, 1994

Docket No. 50-320

Mr. T. G. Broughton
Vice President and Director, TMI
GPU Nuclear Corporation
P.O. Box 480
Middletown, Pennsylvania 17057-0191

Dear Mr. Broughton:

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Sincerely,

A handwritten signature in dark ink, appearing to read "Michael T. Masnik".

Michael T. Masnik, Senior Project Manager
Non-Power Reactors and Decommissioning
Project Directorate
Division of Operating Reactor Support
Office of Nuclear Reactor Regulation

Enclosures:

1. Exemption
2. Environmental Assessment and Finding of No Significant Impact

cc w/enclosures:
See next page

T. G. Broughton
GPU Nuclear Corporation Unit No. 2

Three Mile Island Nuclear Station
Docket No. 50-320

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July 29, 1994

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

GENERAL PUBLIC UTILITIES)
NUCLEAR CORPORATION)

(Three Mile Island Nuclear Station,)
Unit 2))

Docket No. 50-320

EXEMPTION

I.

GPU Nuclear Corporation (GPU or the licensee), is the holder of Facility Operating (Possession Only) License No. DPR-73 which authorizes possession and maintenance of the Three Mile Island Nuclear Station, Unit 2 (TMI-2 or the plant). The license provides, among other things, that the plant is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The plant is a permanently shut down pressurized light water reactor, currently in Post-Defueling Monitored Storage (PDMS), and is located at a site in Dauphin County, Pennsylvania. TMI-2 is co-located with Three Mile Island Nuclear Station, Unit 1, which remains operational.

II.

TMI-2 permanently ceased power operations in March 1979, and fuel has been removed from the reactor¹ and the site. License No. DPR-73 was modified

¹ To the extent reasonably achievable, all fuel has been removed from the reactor vessel, less than 1 percent of the original core inventory remains; therefore, the term defueled will be used to describe TMI-2. An estimated 2040 lbs and 385 lbs of residual fuel (core debris) remain in the reactor vessel and balance of the facility external to the reactor vessel, respectively. Independent evaluations performed by the NRC and its consultants confirmed the licensee analysis that the fuel debris could not sustain criticality.

by Amendment No. 48 (December 28, 1993) which extensively altered TMI-2 Technical Specifications to be consistent with post-defueling monitored storage.

Title 10 of the Code of Federal Regulations, Section 140.11(a)(4) (10 CFR 140.11(a)(4)), requires each licensee to have and maintain primary nuclear liability insurance in an amount equal to \$200 million. In addition, each licensee is required to maintain secondary financial protection in the form of private liability insurance under an industry retrospective plan. However, 10 CFR 140.8 allows that the Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of Part 140 as it determines are authorized by the law and are otherwise in the public interest.

By letter dated October 28, 1993, the licensee requested the elimination of the current requirement for TMI-2 to participate in the industry retrospective rating plan for secondary level coverage as required in 10 CFR 140.11(a)(4).

III.

The justification presented by the licensee for the request is that the Commission decision, as presented in the July 13, 1993, Staff Requirements Memorandum (SRM) on SECY-93-127, "Financial Protection Required of Licensees of Large Nuclear Power Plants During Decommissioning," allows withdrawal from participation in the secondary financial protection layer.

The NRC staff independently evaluated the legal and technical issues associated with the application of the Price-Anderson Act to permanently shut down reactors in SECY-93-127. In this evaluation, the staff concluded that the Commission has the discretionary authority to respond to licensee requests for a reduction in the level of primary financial protection and withdrawal from participation in the industry retrospective rating plan. Depending on the plant-specific configuration and the time since permanent shutdown, the staff also concluded that potential hazards may exist at permanently shutdown reactors for which continued financial protection is warranted. The staff further concluded that accidents and hazards insured against under Price-Anderson Act go beyond design basis accidents and beyond those considered "credible" as that term is used in 10 CFR Part 100 and cases interpreting the application of that regulation. The Commission issued an SKM addressing SECY-93-127 on July 13, 1993, and among other things, approved the staff recommendation to allow the withdrawal of the secondary financial protection layer.

In the exercise of its discretionary authority, the Commission may, as long as a potential hazard exists at a permanently shutdown reactor, require the full amount of primary financial protection and full participation in the industry retrospective rating plan. At such time as the hazard is determined to no longer exist, the Commission may reduce the amount of primary financial protection and permit the licensee to withdraw from participation in the industry retrospective rating plan.

Since the legislative history of the Price-Anderson Act does not explicitly consider the potential hazards that might exist after termination of operation, the staff generically evaluated the offsite consequences associated with normal and abnormal operations, design basis accidents, and beyond design basis accidents for reactors that have been permanently defueled and shut down. With regard to TMI-2, the staff concluded that, in view of the time that has elapsed since plant shutdown, aside from the handling, storage, and transportation of the remaining core debris and radioactive materials, no reasonably conceivable potential accident exists that could cause significant offsite damage.

Typically, the most significant accident sequence for a permanently defueled and shutdown reactor involves the complete loss of water from a light water reactor spent fuel pool. This accident scenario is not credible at TMI-2 since the spent fuel pool is drained and no spent fuel is stored in the pool.

The staff considered liability coverage needs associated with decommissioning activities and transportation of radioactive materials. The staff recognizes that the potential hazards and consequences associated with a permanently shutdown reactor with no spent fuel are greatly reduced, and that the permanently shutdown reactor does not contribute a level of risk to the participants in the secondary pool proportionate to that of an operating reactor; therefore, relief from financial protection requirements would be warranted. The results of our evaluation, as endorsed in the July 13, 1993, SRM on SECY-93-127, allow a reduction in the amount of financial protection

required of licensees of large nuclear plants that have been prematurely shut down. GPUN meets the criterion established in SECY-93-127 for relief from secondary financial protection requirements since the staff issued an order on July 20, 1979, suspending the authority of the licensee to operate the facility, no IMI-2 spent fuel is stored onsite, and the IMI-2 license was amended on September 14, 1993, allowing the licensee to possess, but not operate the facility.

IV.

The staff, based on its independent evaluation consistent with the Commission July 13, 1993 SRM, and based on SECY-93-127, has concluded that sufficient bases exist for our approval of relief from the financial protection requirements for the Three Mile Island Nuclear Station, Unit 2. The staff has also concluded that granting the proposed exemption does not increase the probability or consequences of any accidents or reduce the margin of safety at this facility.

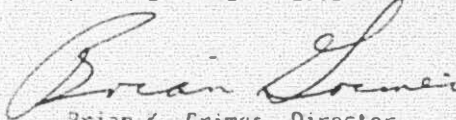
V.

Based on the discussion presented in Sections III and IV above, the Commission has determined, that pursuant to 10 CFR 140.8, this exemption is authorized by law and is otherwise in the public interest. Therefore, the Commission grants an exemption from the requirements of 10 CFR 140.11(a)(4) to participate in the industry retrospective rating plan (secondary level financial protection) for Three Mile Island Nuclear Station, Unit 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (59 FR 38648) (dated July 29, 1994).

This exemption is effective upon issuance.

FOR THE NUCLEAR REGULATORY COMMISSION



Brian K. Grimes, Director
Division of Operating Reactor Support
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland,
this 29th day of July 1994.

UNITED STATES NUCLEAR REGULATORY COMMISSION
GENERAL PUBLIC UTILITIES NUCLEAR CORPORATION
THREE MILE ISLAND NUCLEAR STATION, UNIT 2
DOCKET NO. 50-320

ENVIRONMENTAL ASSESSMENT AND FINDING OF NO SIGNIFICANT IMPACT

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 140.11(a)(4) to Facility Operating License No. DPR-73, a possession-only license held by the General Public Utilities Nuclear Corporation (GPU or the licensee). The exemption would apply to the Three Mile Island Nuclear Station, Unit 2 (TMI-2), a permanently shutdown plant located at the GPU site in Dauphin County, Pennsylvania.

ENVIRONMENTAL ASSESSMENT

Identification of Proposed Action:

The proposed action would grant an exemption from the requirements of 10 CFR 140.11(a)(4) to the extent that TMI-2 would be exempted from participation in the industry retrospective rating plan (secondary level financial protection). The licensee requested the elimination of its required participation in a letter dated October 28, 1993.

The Need for the Proposed Action:

TMI-2 ceased power operations in March 1979 and is currently in long-term storage, termed Post-Defueling Monitored Storage. Fuel has been removed from

the reactor and the site. License No. DZR-73 was modified by Amendment No. 48 (December 28, 1993) which extensively altered TMI-2 Technical Specifications to be consistent with post-defueling monitored storage.

Since TMI-2 no longer contributes as great a risk to the retrospective rating plan participants as does an operating plant, this reduction in risk should be reflected in the indemnification requirements to which the licensee is subject. Approval of this request would allow a more equitable allocation of financial risk.

Environmental Impact of the Proposed Action:

The proposed action does not involve any environmental impacts. The proposed exemption is in a subject area, changes in surety, insurance and/or indemnity requirements, for which the Commission in 10 CFR 51.22(c)(10) has determined that a license amendment would meet the criteria for categorical exclusion from the need for either an environmental assessment or an environmental impact statement. However, the Commission has nonetheless decided to prepare an environmental assessment for this specific action.

Since the proposed action does not involve a change in plant operation or configuration, there is reasonable assurance that (1) the proposed action would not increase the probability or the consequences of an accident or reduce the margin of safety, (2) no changes would be made in the types or quantities of effluents that may be released offsite, and (3) there would be no significant increase in the allowable individual or cumulative radiation exposure.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed action does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action:

Since the Commission has concluded that there are no measurable environmental impacts associated with the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the action. This would not reduce the environmental impacts associated with the plant and would not enhance the protection of the environment or public health and safety.

Alternative Use of Resources:

This action does not involve the use of resources not previously considered in the Final Programmatic Environmental Statement for TMI-2, dated March 1981, as supplemented.

Agencies and Persons Consulted:

The HRC staff consulted with a representative of the State of Pennsylvania regarding the environmental impact of the proposed action.

FINDING OF NO SIGNIFICANT IMPACT

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment; therefore, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the licensee application request for exemption from the Price-Anderson Act Coverage, dated October 28, 1993, and SECY-93-127, "Financial Protection Required of Licensees of Large Nuclear Power Plants During Decommissioning," dated May 10, 1993, which are available for public inspection at the Commission Public Document Room, Gelman Building, 2120 L Street, NW., Washington, D.C. 20555, and at the local public document room at the Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601 Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland, this 29th day of July 1994.

FOR THE NUCLEAR REGULATORY COMMISSION



Marvin M. Mendonca, Acting Director
Non-Power Reactors and Decommissioning
Project Directorate
Division of Operating Reactor Support
Office of Nuclear Reactor Regulation