



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

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO CORPORATE MERGER (CANAL ELECTRIC COMPANY)

NORTH ATLANTIC ENERGY SERVICE CORPORATION

DOCKET NO. 50-443

SEABROOK STATION, UNIT NO. 1

1.0 BACKGROUND

By application dated February 2, 1999, Canal Electric Company (Canal) requested that the U.S. Nuclear Regulatory Commission (NRC) consent to the indirect transfer of control of Canal's interest in the operating licensee (OL) for Seabrook Station Unit No. 1 (Seabrook). Canal is a 3.52-percent owner of Seabrook. The remaining 96.48 percent is owned by a consortium of 10 other companies. North Atlantic Energy Service Corporation (North Atlantic) is the exclusive licensed operator of Seabrook and is authorized to act as agent for the 11 owners of the facility. The application was supplemented on February 23, March 5, and March 17, 1999.

Canal is a wholly owned subsidiary of Commonwealth Energy System (CES). CES is a Massachusetts Business Trust organized under the laws of Massachusetts and an exempt public utility holding company under Section 3(a)(1) of the Public Utility Holding Company Act (PUHCA). On December 5, 1998, CES and BEC Energy Company (BEC) entered into an Agreement and Plan of Merger pursuant to which these entities will merge into a new surviving Massachusetts corporation yet to be named. For the purposes of this safety evaluation, the surviving corporation is designated "New Company." BEC is an exempt public utility holding company under Section 3(a)(1) of the PUHCA and is regulated as a public utility in the Commonwealth of Massachusetts. Upon consummation of the merger, the stockholders of CES and BEC will become the stockholders of New Company. BEC stockholders will own approximately 68 percent of New Company and CES stockholders will own approximately 32 percent. The assets (including their respective subsidiaries) and liabilities of BEC and CES will become the assets and liabilities of New Company. Therefore, Canal will become a wholly owned subsidiary of New Company, and the merger will effect an indirect change of control of Canal's interest in the Seabrook OL.

Seabrook is a 1,158-MW pressurized-water reactor generating facility that is owned by the 11 Seabrook joint owners pursuant to an agreement for joint Ownership, Construction, and Operation of New Hampshire Nuclear Units, dated May 1, 1973, as amended (Joint Ownership Agreement). In accordance with the Joint Ownership Agreement and the Managing Agent Operating Agreement dated June 29, 1992, as amended, (the "MAOA"), North Atlantic is the Managing Agent for the 11 Seabrook joint owners and, as such, has responsibility for the

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management, operation, and maintenance of Seabrook. North Atlantic's position as Managing Agent and operator was approved by issuance of Amendment No. 10, dated May 29, 1992, to the Seabrook OL.

2.0 FINANCIAL QUALIFICATIONS

The financial qualifications analysis is based on the information provided in the application and supplements thereto, referenced above (hereinafter collectively "the application"). The application states that, after the proposed merger, the current regulatory mechanisms that affect Canal's revenues and expenses for Seabrook's operation will remain in place and that the decommissioning funding for Seabrook will not be affected. On the basis of the information in the application, the staff finds that there will be no apparent adverse effect on Canal's ability to contribute appropriately to the operations and decommissioning of Seabrook as a result of the proposed merger. Following the merger, Canal will remain an electric utility as defined in 10 CFR 50.2. As an electric utility, Canal is exempt from further financial qualifications review, pursuant to 10 CFR 50.33(f).

However, in view of the NRC's concern that corporate restructurings involving new parents or affiliates can lead to a diminution of assets necessary for the safe operation and decommissioning of a licensee's nuclear power plant, the NRC's practice has been to condition such license transfer approvals upon a requirement that the licensee not transfer significant assets from the licensee to an affiliate without first notifying the NRC. This requirement assists the NRC in assuring that a licensee will continue to maintain adequate resources to contribute to the safe operation and decommissioning of its facility. Thus, the following should be made a condition of the order approving the application regarding the proposed merger:

Canal shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Canal to its proposed parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Canal's consolidated net utility plant as recorded on Canal's books of accounts.

3.0 TECHNICAL QUALIFICATIONS

After the merger, North Atlantic will remain as the sole licensed operator of the facility and will continue to have exclusive responsibility for the management, operation, and maintenance of Seabrook. The proposed merger will not affect North Atlantic's technical qualifications or responsibilities with regard to Seabrook. Also, no changes are proposed to the organization or personnel responsible for operation of Seabrook. Based on the foregoing, the staff concludes that the proposed merger will not affect North Atlantic's technical qualifications or responsibilities with regard to Seabrook.

4.0 ANTITRUST REVIEW

The Atomic Energy Act does not require or authorize antitrust reviews of post-operating license transfer applications. Kansas Gas and Electric Co., et al. (Wolf Creek Generating Station, Unit 1), CLI-99-19, 49 NRC____, slip op. (June 18, 1999). Therefore, since the transfer application postdates the issuance of the Seabrook operating license, no antitrust review is required or authorized.

5.0 FOREIGN OWNERSHIP, CONTROL, OR DOMINATION

Information in the application submitted to comply with 10 CFR 50.33(d) states that Canal is a corporation organized under the laws of the Commonwealth of Massachusetts with its principal place of business in Massachusetts and that all of Canal's directors and principal officers are United States citizens. Furthermore, the application states that "Canal is not now owned, controlled or dominated by an alien, foreign corporation or foreign government. After the merger, Canal will become a direct subsidiary of the New Company which is not owned, controlled or dominated by an alien, foreign corporation or foreign government." The staff does not know or have reason to believe otherwise.

6.0 CONCLUSION

In view of the foregoing, the NRC staff concludes that the proposed merger of CES and BEC, which will create a new parent company of Canal, will not adversely affect the financial qualifications of Canal with respect to its ownership share of Seabrook. Nor will this merger impact the technical qualifications of North Atlantic as the licensed operator of Seabrook. Also, there do not appear to be any problematic antitrust or foreign ownership considerations related to the Seabrook license that would result from the proposed merger. Thus, the proposed merger will not affect the qualifications of Canal as a holder of the license for Seabrook, and the indirect transfer of control of the license, to the extent effected by the proposed merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the condition discussed above regarding the transfer of significant assets. Accordingly, the application regarding the proposed merger should be approved with the foregoing condition.

Principal Contributor: M. A. Dusaniwskyj
Alex McKeigney

Date: August 11, 1999

August 11, 1999

MEMORANDUM TO: Rules and Directives Branch
 Division of Administrative Services
 Office of Administration

FROM: Office of Nuclear Reactor Regulation

SUBJECT: **NORTH ATLANTIC ENERGY SERVICE CORP - SEABROOK STATION**

One signed original of the *Federal Register* Notice identified below is attached for your transmittal to the Office of the Federal Register for publication. Additional conformed copies (**Five**) of the Notice are enclosed for your use.

- Notice of Receipt of Application for Construction Permit(s) and Operating License(s).
- Notice of Receipt of Partial Application for Construction Permit(s) and Facility License(s): Time for submission of Views on Antitrust matters.
- Notice of Consideration of Issuance of Amendment to Facility Operating License. (Call with 30-day insert date).
- Notice of Receipt of Application for Facility License(s); notice of Availability of Applicant's Environmental Report; and Notice of Consideration of Issuance of Facility License(s) and Notice of Opportunity for Hearing.
- Notice of Availability of NRC Draft/Final Environmental Statement.
- Notice of Limited Work Authorization.
- Notice of Availability of Safety Evaluation Report.
- Notice of Issuance of Construction Permit(s).
- Notice of Issuance of Facility Operating License(s) or Amendment(s).
- Order.
- Exemption.
- Notice of Granting Exemption.
- Environmental Assessment.
- Notice of Preparation of Environmental Assessment.
- Receipt of Petition for Director's Decision Under 10 CFR 2.206.
- Issuance of Final Director's Decision Under 10 CFR 2.206.
- Other: _____

DOCKET NO. **50-443**

Attachment(s): As stated

Contact: **J. Harrison**
 Telephone: **415-3199**

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