Three Mile Island Alert

The Newsletter of Three Mile Island Alert March 2000

NRC Staff Criticizes Commission's New Regulatory Process

by Scott Portzline, TMIA

For the first time ever, an inside look at the Nuclear Regulatory Commission (NRC) shows morale could threaten the ability of the NRC to carry out its statutory mandate to protect the public health and safety. A major overhaul of the regulatory process is in the works and some of the strongest criticism is coming from within the commission itself.

While the NRC publicly states that it is streamlining regulations to help utilities and inspectors perform with greater safety and efficiency, the NRC staff told a different story to the investigative arm of congress. The majority of NRC staff who responded to the US General Accounting Office survey believe that the new risk-informed regulatory oversight process will reduce plant safety margins. An incredible seven

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AmerGen Acquires Clinton & TMI-1; More Purchases Planned

from a February 2000, American Nuclear Society Nuclear News article

AmerGen Energy Company, the joint venture created by PECO Energy Company and British Energy Company in 1997 to compete in the nuclear plant buyers' market, purchased a pair of nuclear units less than a month before the start of the new year. On December 16, AmerGen acquired the Clinton plant, in central Illinois, for $20 million from Illinois Power Company. The transaction marks AmerGen's first completed purchase of a U.S. nuclear power plant. Five days later, on December 21, AmerGen closed on the $100-million deal for the purchase of the Three Mile Island-1 plant, in Londonderry, Pa., from GPU, Inc.

The sale of Clinton, a 930-MWe (net) General Electric boiling water reactor, comes one year after Illinois Power's decision to exit the nuclear power business and less than six months after Illinois Power and AmerGen reached a definitive agreement on the terms of the sale.

AmerGen assumes responsibility and liability for operating and ultimately decommissioning Clinton. Illinois Power has transferred the existing decommissioning trust fund of $98 million and is making additional payments to the decommissioning trust funds intended to be sufficient to provide for the actual decommissioning of Clinton by 2026, when the plant's operating license is scheduled to expire.

Illinois Power will purchase at least 75 percent of Clinton's electricity output through 2004.

To purchase TMI-1, AmerGen paid $23 million to GPU and will pay another $77 million over five years for the plant's nuclear fuel. A second

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inside...

Three Mile Island Alert

Three Mile Island Alert (TMIA) is a non-profit citizens' organization dedicated to the promotion of safe-energy alternatives to nuclear power, especially to the Three Mile Island nuclear plant.

Formed in 1977 after the construction and licensing of TMI Unit-1 and the construction of the infamous Unit-2, TMIA is the largest and oldest safe-energy group in central Pennsylvania.

TMIA members interested in specific aspects of nuclear power are encouraged to join one of TMIA's committees. These committees include:

- Radiation Monitoring
- Low-level Radioactive Waste
- Health Effects of TMI
- Nuclear Plant Security

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out of ten nuclear plant inspectors say they fear that the new regulatory process will not identify and correct degrading performance.

Three Mile Island Alert is very troubled that inspections and regulations are being lowered to a level similar to that of the 1970's which produced the TMI accident and several other "close calls." Once again, "the fox will be guarding the hen house" if those who stand to profit have their way. Three-fourths of the NRC staff told GAO auditors that utilities and industry groups had too much input and influence in developing the new regulatory process.

Inspection hours might be reduced even further according to two-thirds of plant inspectors. The same percentage have misgivings that licensees will manipulate performance indicator data and seventy-six percent say the proposed process could mask problems. More than half of the inspectors worry that there will be an increased reliance on utilities' self-assessments rather than actual observations by the NRC.

According to the January 2000 GAO report titled "Nuclear Regulation: NRC Staff Have Not Fully Accepted Planned Changes," the staff has "expressed high levels of uncertainty and confusion about the new directions in regulatory practices and challenges facing the agency." Only twenty percent of the NRC staff say that trust exists between NRC senior management and the NRC staff!

The NRC's Office of the Inspector General concluded that "without significant and meaningful improvement in management's leadership, employees' involvement, and communication, NRC's climate could eventually erode the staff's outlook and commitment to doing their job."

The GAO noted that one-fourth of NRC staff said they were considering resigning and almost half said they would not recommend a colleague take a job with the commission. Nearly one-third of the staff said they were dissatisfied with the NRC.

The GAO report concluded that, "NRC has neither established long-range goals to implement a risk-informed approach nor developed performance indicators to determine whether the agency has met the goals. ...Without such information, NRC has no way to determine where it is going, how it will get there, or what progress has been made."

The GAO has provided adequate warning that the NRC is headed into a void which could allow the world's most technologically advanced nation to overestimate its abilities and harm its citizens. As a nuclear watchdog group, we are astounded that this level of criticism, normally coming from the anti-nuclear movement, is being trumpeted by the NRC staff and inspectors. ▣

Canadian Group Pushes Broader Study of Nuclear Risk

from a January 22, 2000, The Toronto Star article

The announcement of a new national surveillance program that will look for higher rates of cancer among people living near nuclear power stations has met with a lukewarm response from a Durham Region citizens group.

Irene Kock, of the Nuclear Awareness Project, said the program "just doesn't go far enough," and she might not trust interpretation of the data. "We'd like to see more cause-and-effect studies," said Kock, whose group monitors the Pickering nuclear plant. "Surveillance studies just aren't enough. We already know the cancer is there . . . we'd like to know what's causing it." Kock is also disappointed the program focuses solely on cancer and ignores the incidence of birth defects.

The national program, unveiled Thursday by the Atomic Energy Control Board in response to widespread public fears, will do continuing surveillance of nuclear installations. The program will also monitor populations near uranium mines, atomic research facilities, and fuel-processing plants. It is to begin within months as an Ontario pilot project, possibly centered on the Bruce or Pickering nuclear stations, and will go national by 2002. The federal health department and the control board will run the program, using data collected by Ontario Cancer Care and similar agencies.

Kock, who welcomed the initiative despite misgivings, said she would prefer an independent analysis of collected data, given that the control board typically interprets the findings. "We really need something more removed," Kock said. "We need an interpretation exclusive of a government agency or the utility."

Pickering Mayor Wayne Arthurs cheered the "long overdue" announcement. "This is a very progressive move and shows a welcome widening of the (control board's) responsibility." Arthurs said creation of the surveillance program signals more inclusion of the community in the board's actions.

Two control board studies in 1990 and 1991 found that children up to 14 living near the Bruce and Pickering power plants had a leukemia rate 40 per cent higher than the provincial average. But the control board's consultants said these higher rates could be simply chance. Another 1991 report counted 24 babies with Down syndrome born 1973-1988 to mothers near the Pickering plant, compared with the expected 13.

The surveillance system marks a major shift for the nuclear watchdog, which has stated in the past that nuclear plants cannot produce cancers because regulations keep radiation well below problem levels. ▣

Wackenhut to Provide Guards at Three Mile Island Plant

from a January 15, 2000, The Palm Beach Post article

Wackenhut will take over security operations at the Three Mile Island nuclear plant, the new owners of the complex said Friday.

Terms were not disclosed.

AmerGen, which took over operations of the plant's Unit 1 reactor last month, will contract with Palm Beach Gardens-based Wackenhut, which also provides security at other U.S. nuclear plants, AmerGen spokesman Ralph DeSantis said. ▣

Public Hearing in York on PECO Energy's Unicom Plan

On **April 4, 2000**, the PA Public Utility Commission will hold a public hearing on PECO Energy's proposal to create Unicom with Commonwealth Edison. If approved, Unicom would operate, possess, or monitor 20 nuclear plants in Illinois, New Jersey, and Pennsylvania, including Peach Bottom.

The hearing will be held at **7:00 pm at:**
Holiday Inn (Red Lion Room)
I-83 & Rt. 30 (Exit 9E)
334 Arsenal Rd
York PA (717) 845-5671

Special thanks to TMIA's Eric Epstein, who successfully petitioned the PUC to add this public meeting in York. So, if you care, be there!

House Democrats Keep Pushing NRC on Recycled Metals Issue

from a January 10, 2000, Nuclear Fuel article

Three Democratic congressmen continue to press the NRC to justify its "hands-off" position on the release of radioactively contaminated materials into the marketplace. In a Dec. 23, 1999, letter to NRC Chairman Richard Meserve, Reps. John Dingell (D-Mich.), Ron Klink (D-Pa.), and Edward Markey (D-Mass.) said it appears the agency "has abdicated its responsibility to the public in order to justify its failure to follow its implementing act, its own regulations, and the directives of Congress."

The House Democrats' letter was a response to Meserve's Dec. 20 reply to their initial Oct. 25 letter. In the October letter, they questioned why NRC was not required to license the transfer or sale of 6,000 tons of volumetrically contaminated nickel from a former DOE gaseous diffusion plant for reuse, including in consumer products.

BNFL Inc., the U.S. subsidiary of British Nuclear Fuels plc, and Manufacturing Sciences Corp. (MSC), which it owns, received a $238-million contract in 1997 to clean up DOE's closed gaseous diffusion plant at Oak Ridge, Tenn. and to recover and recycle metal from the site. Last March Tennessee approved a license amendment for MSC that permits the unrestricted sale of the radioactively contaminated nickel.

The congressmen called NRC's Dec. 20 letter "extraordinary," stressing their criticism in underlined type. The letter made clear the lawmakers did not buy NRC's "curious position" that "contaminated material sold into interstate commerce that has absolutely no value added by the radioactive material or may be viewed as having a lesser value because of the radioactive content requires less regulation, labeling or warning to the public of its content than products in which the radioactive material has a beneficial effect." They said NRC's "unique reasoning" has not been publicly revealed before, although the agency claims a 40-year history.

The letter also criticized NRC statements that the nickel was not a "product" or "commodity" because MSC did not deliberately insert the byproduct material into the nickel, nor was the material present because of the benefit added by its radioactive properties. "To say that this is a distinction without meaning is an understatement," the letter said. "But this convoluted interpretation of the Atomic Energy Act and implementing regulations -- not supported by a single piece of documentation -- would have a monumental economic effect on a number of industries."

The congressmen said the NRC's position would let nuclear utilities, federal weapons sites, and other nuclear material handlers release tens of millions of tons of radioactive metal and other materials into interstate commerce before a uniform national standard is established. Also, the quantities or concentration of radioactive material could exceed that in products already subject to NRC licensing, they said. The letter also noted that it costs generators billion of dollars to dispose of the material. "With its action, the NRC has determined that these costs would be passed on to the steel industry and all industries using steel, as well as the general public."

The Specialty Steel Industry of North America (SSINA) last week criticized any unrestricted release of radioactively contaminated scrap metal, saying U.S. producers of specialty steel have adopted a "zero tolerance" toward potentially radioactive scrap metals. SSINA members have installed highly sensitive radiation detectors to monitor every incoming shipment of scrap metal, and no radioactively contaminated metal will be accepted, it said.

The congressmen also criticized NRC's "artificial distinction," which the lawmakers said would allow millions of products to contain radioactive components because the components were not deliberately inserted or because they have no benefit. Congress and the public have directed the NRC to control the manufacture, processing, transfer, and use of all commercial products containing radioactive materials, regardless of the source, they said. "Every attempt of the NRC to abdicate responsibility has been rejected."

They added: "Not surprisingly, the NRC, after six weeks' consideration of our letter, could not provide any supporting documentation for its alleged 40-year policy. In fact, every legislative and regulatory action opposes its interpretation." ▣

Nuclear Fears Kill U.S. Plan to Sell Nickel

from a January 12, 2000, NY Times article

The Energy Department is backing away from a plan to sell its huge stock of surplus nickel, a metal used in stainless steel and other alloys, because the material, left over from nuclear weapons manufacture, may be too radioactive to sell on the open market, officials said today.

The department had announced a plan in August 1997 to sell 6,000 tons of nickel later this year, for $41 million, in a program to sell materials left over from manufacturing weapons. Another 10,000 tons would be sold later. The material was radioactive, but there was no standard measure of how much radioactivity in such material is unsafe, so the plan did not violate any rules.

But the idea horrified scrap dealers and steel industry leaders, who feared having to explain to their customers that their product was even mildly radioactive.

"It would hurt our workers and our facilities, if it isn't in fact safe, and the people won't ever believe it's safe," said Thomas Sneeringer, senior vice president of the American Iron and Steel Institute, a trade group here.

The Energy Department has been seeking a ruling from the Nuclear Regulatory Commission, an independent agency that has jurisdiction over most uses of radioactive materials. But the commission recently had a setback, concluding three weeks ago that a contractor it had hired to research the issue had a conflict of interest, because the contractor was also in the radioactive waste recycling business.

And Congressional critics said the radioactive metal could end up in things like stainless steel tableware and braces for children's teeth. Three Democrats on the House Commerce Committee, Representatives John D. Dingell of Michigan, Ron Klink of Pennsylvania and Edward J. Markey of Massachusetts, have been hammering the commission for failing to develop a standard of radioactivity for materials like the nickel in which the radioactivity permeates the material, as opposed to sitting on its surface. The question is becoming more pressing as the energy agency and electric companies take apart old nuclear plants. The 6,000 tons are at the former K-25 plant near Oak Ridge, Tenn.

Materials that are surface-contaminated can be cleaned, but it is unclear whether those in which the radioactivity permeates can be.

The NRC regulates consumer products to which radiation has been intentionally added. But the commission has maintained, until recently, if the metal includes radioactive material that was not added for "beneficial effect," the decision was up to the state, in this case Tennessee.

And in Nashville, the director of the state's Division of Radiological Health approved the release of the nickel. ▣

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unit at the site, TMI-2, which was permanently shut down after its accident in 1979, will remain under ownership of GPU.

GPU is leaving the power generating business to focus on the transmission and distribution of electricity. GPU and AmerGen first agreed to the sale of TMI-1 in July 1998.

AmerGen has assumed full responsibility for the decommissioning of TMI-1, which has been prefunded by GPU for an amount of $230 million. The unit, a 786-MWe (net) Babcock & Wilcox pressurized water reactor, is licensed to operate to 2014.

GPU has agreed to purchase the energy and capacity from TMI-1 from January 1, 2000, through December 31, 2002, at fixed prices.

AmerGen has another deal pending with GPU, this one for the $10-million purchase of Oyster Creek, in Forked River, N.J. AmerGen also has a tentative deal signed with Vermont Yankee Nuclear Power Corporation to purchase the Vermont Yankee plant, in Vernon, Vt., for $23.5 million.

A proposed deal to purchase Nine Mile Point-1 and a large share of Nine Mile Point-2, in Scriba, N.Y., from Niagara Mohawk Power Corporation for $163 million has been put on hold at least for the time being by a purchase bid made by Rochester Gas and Electric Corporation. Currently, the New York state Public Service Commission is investigating the similar bids made by AmerGen and RGE for the NMP plants. ▣

NRC to Withhold Nuke Plant Information about Shutdowns

from a December 27, 1999, The Energy Report article

To partially protect nuclear operators from pressures of the electric wholesale market, the Nuclear Regulatory Commission (NRC) has agreed to keep information about plant shutdowns and restarts confidential unless the plant owner waives the right.

In the past, the NRC would supply information about most aspects of nuclear licensees' affairs, but with the move toward marketplace competition, it became evident that the policy was having an effect on wholesale prices. Although the commission does not require companies to file information about outages, most have done so voluntarily to help facilitate inspection schedules and monitoring. "In light of the impact of deregulation, NRC reviewed its policy regarding release of outage information," the announcement said.

"The agency concluded that outage information, if provided in writing with a request that it be considered confidential business information, or proprietary, would likely be withheld from public disclosure under terms of commission regulations and the U.S. Trade Secrets Act."

To comply with this decision, the NRC said that unless the company agreed to allow the information to be released, or if the outage was part of a public docket, then it would not release the information "without first providing a licensee an opportunity to formally request it be withheld."

The NRC's Mindy Landau said it had become obvious that the new regulations were needed. "The industry has changed so much over the past several years that it needed to be done," she said, "We have seen shutdown information directly affect the prices on the spot market for electricity."

The decision was not easy, however, because of the NRC's desire to keep as much information as possible public, Landau said.

Utilities will have 15 days to decide whether the information on the shutdown would harm their financial situation and request that the information be kept secret. The NRC will then decide whether to continue keeping it confidential past that time period.

Public interest groups are concerned about this decision. David Lochbaum, nuclear safety engineer at the Union of Concerned Scientists, said that his group is concerned that the NRC's decision will require additional efforts on the part of the public to monitor nuclear plant performance. "The industry has claimed that because of deregulation, some of that information about plant outages becomes a competitive issue. We can sympathize with that. We understand the business angle," Lochbaum said. "The one possible drawback is that it somewhat erodes public participation in the process."

Even if utilities agree to release the information, the 15-day lag time the NRC imposes will limit the window of opportunity for interested parties to raise issues with the commission about plant startups, Lochbaum said.

Lochbaum said the NRC's daily events reports would probably still include unexpected outages, at least for situations in which plants automatically trip off-line because of a malfunction. However, the daily events reports won't include cases where plants are manually shut because of equipment problems. Those are deemed planned outages, even if the plant is forced off line in response to malfunctioning equipment or other concerns, he said.

For longer range planned outages, the American Nuclear Society publishes a biannual listing of upcoming outages in its Nuclear News publication. ▣

Pennsylvania Utilities Fight Counties over Tax Assessments

from a December 9, 1999, Nucleonics Week article

Pennsylvania electric utilities on the road to deregulation are fighting local governments' real estate tax value assessments on their nuclear generating assets.

A law enacted in May changed the state's Public Utility Realty Tax Act (Purta) to require deregulated electric companies to pay local property taxes rather than paying a property assessment to the state, as they had under regulation. At issue is how to set a market value for a nuclear plant. Estimates in Pennsylvania range from more than $3.9-billion for Susquehanna to $50-million for Three Mile Island-1, but every utility is taking its assessment to court.

The Montgomery County Assessment Board first valued PECO's Limerick at $939-million. PECO asked the board to reconsider, and filed an Aug. 31 appeal to the County Common Pleas Court just before the board announced a slightly reduced assessment of about $912.5-million.

The assessment board's second ruling came after a hearing in which PECO claimed that the current estimated cost of $1-billion to decommission the plant in 2026 exceeded the facility's value, so Limerick's assessment should be reduced to zero, said PECO attorney Michael

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Corporate Take-Over of World's Nukes

from a Spring 2000 Earth Island Journal article

British Energy (BE), Britain's privatized nuclear energy conglomerate, has formed a US-based entity called AmerGen. Under the banner of deregulation, AmerGen has joined forces with Philadelphia Electric in an attempt to purchase 20 US nuclear powerplants - including Three Mile Island, Nine Mile Point, Oyster Creek, and Vermont Yankee. Philadelphia Electric already owns Peach Bottom and Limerick. AmerGen could soon control 20 percent of US nuclear generating capacity.

BE controls 11 British reactors while its Canadian branch, Canegen, is set to purchase several aging Canadian reactors. By the end of 2000, this multinational could control ten percent of the world's nuclear capacity and 25 percent of the US' nuclear power.

The decrepit state of nuclear power has never been more apparent. AmerGen is picking up TMI for a paltry $100 million and buying the 13-year-old Clinton nuclear plant for $20 million (marked down from $4.2 billion).

How can AmerGen hope to make any money running these run-down reactors? "It's quite simple," The Nuclear Monitor explains. "Run them as cheaply as possible for as long as possible." AmerGen will sell its power back to the same companies that sold the reactors.

In Britain, the Monitor explains, AmerGen's owners found out how to turn a profit on privatized nukes: "The best way to cut costs was to fire nuclear workers and contract out as much work as they could" thereby dispensing with workers' benefits. Overtime for the remaining employees has averaged 60 percent. A secret internal memo leaked by Friends of the Earth reveals the company plans to fire another 300 workers.

If AmerGen plays its cards right, it will reap a windfall by collecting "decommissioning" fees (funds set aside to close down these plants). The Nuclear Regulatory Commission (NRC) is bending over backwards to make this happen. The Monitor reports how, "in a virtually unprecedented move for a regulatory agency ... the NRC asked Congress to remove its authority to examine antitrust issues involving nuclear utilities." This move would bar any public review of these nuclear sales and the Senate Environment Committee has agreed to honor the NRC's request. ▣

NIRS Challenges Oyster Creek License Transfer

from a January 6, 2000, NIRS press release

The Nuclear Information and Resource Service (NIRS) January 5, 2000, filed a formal petition with the U.S. Nuclear Regulatory Commission challenging the proposed transfer of the Oyster Creek nuclear reactor's operating license from GPUN to AmerGen Energy Company (LLC). The petition requests an adjudicatory hearing before a three-judge Atomic Safety and Licensing Board (ASLB).

NIRS charged in its 40-page petition that AmerGen is financially unqualified to operate Oyster Creek. AmerGen has few assets of its own and as a Limited Liability Corporation, the assets of its corporate parents, PECO Energy of Philadelphia and British Energy of the United Kingdom, cannot be touched in the event major repairs are needed or financial setbacks occur. PECO Energy and British Energy have jointly committed only $110 million for operating costs at all of AmerGen's recently-purchased reactors, including Three Mile Island-1, Clinton, and Oyster Creek. AmerGen also has committed to purchasing the Vermont Yankee reactor, and is involved in a disputed purchase of the Nine Mile Point-1 and -2 reactors in upstate New York.

"This type of arrangement puts incredible pressure on the company to operate a reactor even when it should be closed for maintenance or repairs. The NRC long has said that 'placing power production above safety' is a utility's greatest sin, but since its only revenues will come when the plant operates — and it has virtually no cushion — the pressure on AmerGen to run Oyster Creek will be paramount," said Michael Mariotte, executive director of NIRS.

NIRS also charged that AmerGen's British parent, British Energy, is unfit to own or operate a reactor in the United States. Citing a recent investigation by the U.K. Nuclear Installations Inspectorate (NII), and reports on still-secret British Energy documents, NIRS said that since its inception in 1996, British Energy has engaged in deliberate and massive cost-cutting measures and worker layoffs that have compromised public health and safety. At least nine safety-significant events occurred at British Energy reactors just from mid-August to mid-November 1999.

"British Energy is a relatively new company that is trying, rather unsuccessfully, to operate 11 nuclear reactors in the United Kingdom. Its only real areas of expertise are in laying off workers, cutting costs, and flouting the U.K.'s nuclear regulations. British Energy has demonstrated that it is uniquely unqualified to operate atomic reactors in the United States. And, as a 50% partner in AmerGen, this makes AmerGen unqualified as well," said Mariotte.

The NIRS filing also argued that because GPUN had been preparing to close Oyster Creek in 2000, rather than continuing to operate the reactor, the utility has deferred making numerous necessary safety-related improvements to the facility. In addition, in order to continue operations, Oyster Creek would have to make a highly controversial and dangerous expansion of its irradiated fuel pool — a proposal that is currently under investigation by five separate NRC offices.

"Two years ago, GPUN was asking $700 million for Oyster Creek and finally settled with AmerGen for $10 million," said Paul Gunter, Director of the Reactor Watchdog Project for NIRS. "After planning to permanently close the reactor for the past two years by deferring all sorts of corrective action and maintenance, GPUN now plans a hasty 'come-from-behind strategy' that endangers the public safety," continued Gunter. "We think GPUN must now follow through on all their cost savings towards decommissioning the reactor in 2000 and permanently close it," he concluded.

NIRS also filed contentions relating to antitrust issues, and on AmerGen's deletion of material related to Oyster Creek's Decommissioning Trust Fund. It is NIRS' belief that this material would demonstrate that AmerGen intends to keep any remaining funds after decommissioning, rather than return these funds to ratepayers. The Decommissioning Trust Fund is entirely ratepayer-funded. ▣

AmerGen Rejects NIRS' Charges

from a January 20, 2000, Nucleonics Week

AmerGen Energy Co. (LLC) says an antinuclear group has filed no viable contentions in its attempt to bar transfer of the Oyster Creek license from GPU Nuclear to AmerGen. The Nuclear Information & Resource Service (NIRS) is charging that AmerGen, as a limited liability company, has insufficient financial backing to operate multiple reactor sites. In a Jan. 13 response to NIRS' request to intervene, AmerGen said the group's Jan. 5 petition fails to meet NRC requirements and should be dismissed. AmerGen asserts that not one of NIRS' six contentions is valid.

Those contentions range from AmerGen's alleged inadequate financial status to operating practices of one of its parent companies to claimed deferrals of safety and maintenance procedures at Oyster Creek, since GPU had earlier planned to decommission the plant this year.

In its petition, NIRS charged that AmerGen is unqualified to operate Oyster Creek because, as a limited liability company, its parents British Energy (BE) and PECO Energy Co. are shielded "from liability and accountability when things go wrong." NIRS claims that AmerGen has few assets of its own as an LLC and will rely on the generation assets of its plants. So far, AmerGen has a contingency fund of $110-million it can draw on for the two plants it operates, TMI-1 and Clinton, in the event their revenues are not able to cover unforeseen outage costs. NIRS said that the contingency fund would become insufficient if AmerGen adds Oyster Creek or other plants it plans to buy.

In its response, AmerGen said NIRS is wrong to assert that the company will have to rely on Oyster Creek's operating revenues alone, since the company will receive revenues from at least two other plants. AmerGen also pointed out that in its purchase agreement with GPU subsidiary Jersey Central Power & Light Co., JCP&L agreed to buy power from Oyster Creek through March 2003.

NIRS said this is an area of concern since Oyster Creek may not be able to continue to reliably operate at its present capacity and to date, has not been able to generate electricity at a competitive rate. In its response, AmerGen said NIRS has "no basis or expert opinion or documentation" as required by NRC regulations to show "AmerGen's ability to sell Oyster Creek's power at market rates is a genuinely disputed, material issue."

AmerGen said its financial information complies with NRC requirements and was sufficient for license transfers of TMI-1 and Clinton. AmerGen said its financial qualifications are not compromised by its non-utility standing and that its reliance on operating revenues to cover operating expenses is appropriate. AmerGen said it met NRC financial assurance requirements for Oyster Creek without the $110-million contingency fund from its parent companies, and said it meets NRC financial assurance requirements in 10 CFR 140.21 (the Price-Anderson Act) that require a $10-million guarantee for each licensed reactor.

The NIRS petition claims AmerGen may employ risky cost-containment strategies similar to those NIRS alleges are used by its British parent company. NIRS said BE has had nine safety-significant events at its 11 reactors in the England and Wales from mid-August to mid-November 1999. BE is also in talks with the Nuclear Installations Inspectorate (NII) in the U.K. about whether technical staff reductions at BE subsidiaries could increase safety risks.

AmerGen responded that it is entitled to the presumption it will comply with NRC safety regulations. It also said NIRS provided no basis to claim AmerGen would sacrifice safety to maintain production goals and that NRC's oversight programs are in place to ensure the safety requirements will be met.

AmerGen also challenged the legal standing of the two NIRS members with whom NIRS filed the petition. Mariotte said that at least one of the two, who won a request last month to intervene against an Oyster Creek license amendment request to move heavy loads from the spent fuel pool while the unit is at power, should also have standing in a license transfer. Potential intervenors must demonstrate they live, work, or otherwise spend time near a nuclear station to merit standing. ▣

Nuclear Plant License Extension: Trying to Breathe New Life into A Dying Industry

By David Lochbaum, Union of Concerned Scientists

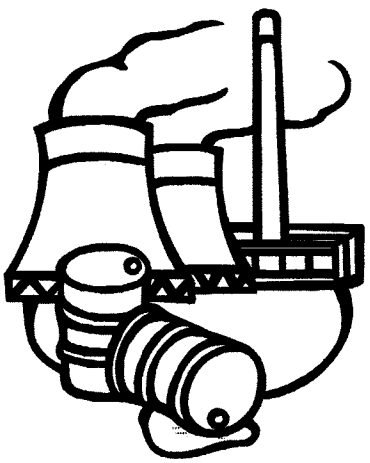
Neil Young famously sang, "It's better to burn out than to fade away." Wise words indeed for his fellow rock stars. But for a nuclear power plant a quiet retirement is much preferable to going out in the blazing glory of a meltdown.

The Calvert Cliffs nuclear power plant in Lusby (about 65 miles from Annapolis) is at the forefront of the growing debate over the fate of aging nuclear power plants. The two reactors at Calvert Cliffs have been operating for nearly 25 years, and have about 15 years left on their operating licenses. But in an unusual move, the owner of the plant, the Baltimore Gas and Electric Co., recently applied to extend the reactors' licenses for another 20 years.

No nuclear power plant has ever operated for the full 40 years of its license, and BGE's application is the first formal request for a U.S. plant to operate beyond 40 years. The average operating life of the 27 permanently closed U.S. nuclear power plants was about 15 years, and no nuclear plant has operated for more than 30 years.

The fate of Calvert Cliffs is of great interest to the nuclear industry. Given that no nuclear power plants have been ordered since 1978, the nuclear industry will likely fade into obscurity early in the new century without the extended lease on life license renewals could provide.

Overseeing this process is the Nuclear Regulatory Commission, or NRC, which has consistently fallen short in keeping safety ahead of the bottom line.



The probability of failure for both humans and machines is highest in the early and late stages of life. The partial meltdown at Three Mile Island and the explosion at Chernobyl were among a number of notable failures that occurred during the early, or break-in, phases of nuclear power plants. Both of these accidents struck during the plants' first year of operation. Although there is no law of probability that predicts an equal number of nuclear accidents at the end of reactors' lives, the prudent course of action is to retire aging plants before they reach the point where reliability drops off markedly.

In people years, the bid for the Calvert Cliffs reactors to live past the 40-year milestone might not sound all that impressive. Consider, however, that these reactors are splitting the atom with technology that was developed when eight-track tapes were cutting edge. And just as a 1975 Pinto must struggle through an inspection before it is deemed safe for the road, older nuclear power plants must be proven safe before having their licenses renewed. Unfortunately, the only thing the NRC's renewal process for Calvert Cliffs proves is that the agency is a thoroughly inept regulator.

The NRC estimates that it will spend 30 months reviewing the Calvert Cliffs license renewal application. And while it claims that this process is open to full public participation, it allowed only a 30-day public comment period on the application. After this period was over, BGE submitted more than 40 supplements to the application and 13 pages of corrections — all apparently unworthy of public review.

So can the NRC alone determine whether an aging plant is a threat to the public? The U.S. General Accounting Office recently concluded that the NRC is unable to oversee itself, let alone the nation's operating nuclear power plants, reporting that the agency does not draw the line between safe and unsafe for nuclear plants and has allowed safety

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levels to drop.

The issue of radioactivity release from the Calvert Cliffs plant is an egregious example of NRC ambivalence on safety. Only a handful of nuclear plants were in operation when the two reactors at Calvert Cliffs were started. Data on the effects of radiation were scarce, and the NRC allowed the plant to begin operating on the assumption that radioactivity routinely released by the plant into the air and water would not threaten human health. While there have been claims that the plant's radioactivity release has harmed the public, the NRC has yet to confirm or refute its original assumption.

In a recent study on the environmental impact of Calvert Cliffs, the NRC detailed the plant's effect on fish and shellfish populations, but offered not a single word on the impact of radioactivity on the human population. When asked about possible human health consequences of radioactivity during a public meeting last April, the NRC replied that this was outside the scope of its review.

The stakes riding on Calvert Cliffs' fate demand that the scope of this review be widened. Before a renewal decision can be made, the NRC should conduct a human health study for Calvert Cliffs, and must clearly define criteria for safety at the plant. Without objective safety standards, the 30 months the agency plans to spend reviewing the Calvert Cliffs renewal will amount to little more than guesswork. ▣

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Sklaroff.

"Nuclear generating facilities sell in the market at a negative price," Sklaroff said. He said PECO's market experts calculate that if Limerick sold for $300-million, PECO would have to pay the buyer a far larger sum for its future decommissioning, which leaves the property with a negative value -- an approach not dismissed by real estate professionals.

The school district's attorney, Wendy Rothstein, rejected the PECO lawyers' negative value argument. "They have a trust fund put aside that can only be used for decommissioning, so how can PECO argue they have to pay out of their own pockets?" Rothstein said. The county included improvements PECO made to the plant and training center buildings on the 300-acre property in its assessment calculations.

PECO made a similar appeal Dec. 1 to the York County Board of Assessments, which assessed Peach Bottom at $300-million. During the county's assessment review this summer, PECO again declared the property had a negative value. PECO has taken its appeal to the county's Court of Common Pleas, Sklaroff said.

GPU Nuclear made a similar appeal to Dauphin County's Common Pleas Court after the county's Board of Assessment Appeals, in a Nov. 2 decision, refused to reduce its original estimate of approximately $50-million for TMI-1. GPU calculates the value should be no more than $10-million, said TMI spokesman Tom Kauffman.

FirstEnergy, which is taking full ownership of Beaver Valley -1 and -2 by acquiring Duquesne Light Co.'s shares, this summer filed with Beaver County Appeals Court against the county's $65-million property value assessment and gave its own estimate, which is under $2-million, said First Energy spokesman Todd Schneider. ▣

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