

core. The licensee will use the approved reload methodologies for the Catawba Nuclear Station reload design containing the LTAs. Given the limited number of LTAs to be installed and the installation in non-limiting locations, the NRC staff concludes that the LTA core design is acceptable for use in the Catawba Nuclear Station.

10 CFR 50.46 identifies acceptance criteria for ECCS performance at nuclear power plants. The material properties of the low-tin ZIRLO are similar to those of the current ZIRLO cladding. Because the current analyses are done with material properties that approximate the low-tin ZIRLO properties, the current ECCS analysis remains applicable and unchanged for the LTAs. Therefore, the NRC staff concludes that the ECCS performance of the Catawba Nuclear Station will not be adversely affected by the insertion of eight low-tin ZIRLO LTAs. As such, the licensee has achieved the underlying purpose of 10 CFR 50.46. The staff has also concluded that should these LTAs fail, the consequences will be bounded by the current analyses for fuel failures and radiological assessments because the source term will not be affected by a different cladding material.

Paragraph I.A.5 of appendix K to 10 CFR part 50 states that the rates of energy, hydrogen concentration, and cladding oxidation from the metal-water reaction shall be calculated using the Baker-Just equation. Since the Baker-Just equation presumes the use of Zircaloy clad fuel, strict application of the rule would not permit use of the equation for determining acceptable fuel performance of advanced zirconium-based alloys. The underlying intent of this portion of the appendix, however, is to ensure that analysis of fuel response to LOCAs is conservatively calculated. Due to the similarities in the chemical composition between the low-tin ZIRLO and ZIRLO, the application of the Baker-Just equation in the analysis of low-tin ZIRLO clad fuel will conservatively bound all post-LOCA scenarios. Thus, the underlying purpose of the rule will be met. Therefore, special circumstances exist to grant an exemption from appendix K to 10 CFR part 50 that would allow the licensee to apply the Baker-Just equation to low-tin ZIRLO.

The purpose of 10 CFR 50.44 is to ensure that means are provided for the control of hydrogen gas that may be generated following a LOCA. The hydrogen produced in a post-LOCA scenario comes from a metal-water reaction. Tests performed by Westinghouse on the low-tin ZIRLO alloy have demonstrated that the

reduction in tin content will have no significant effect on current assessments of hydrogen gas production. As such, the licensee has met the underlying purpose of 10 CFR 50.44.

The NRC staff examined the licensee's rationale to support the exemption request and, for the reasons set forth above, concludes that allowing these eight LTAs with a nominally lower tin composition would meet the underlying purpose of 10 CFR 50.44, 10 CFR 50.46, and appendix K to 10 CFR part 50. Further, the NRC staff has determined that the reduction in tin content will have no significant effect on current assessments of a metal-water reaction, and that the mechanical design of the LTAs would perform satisfactorily. Therefore, ECCS performance will not be adversely affected and application of 10 CFR 50.44, 10 CFR 50.46 and 10 CFR part 50, appendix K, is not necessary to achieve their underlying purpose.

Based upon the considerations above, the NRC staff concludes that, pursuant to 10 CFR 50.12(a)(2), the granting of this exemption is acceptable.

#### 4.0 Conclusion

For the reasons set forth above, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants Duke Energy Corporation an exemption from the requirements of 10 CFR part 50, section 50.44, section 50.46, and appendix K to 10 CFR part 50, with respect to the use of low-tin ZIRLO LTAs at the Catawba Nuclear Station.

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 (68 FR 42136).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 4th day of August 2003.

For The Nuclear Regulatory Commission.

**Herbert N. Berkow,**

*Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 03-20240 Filed 8-7-03; 8:45 am]

**BILLING CODE 7590-01-P**

## RAILROAD RETIREMENT BOARD

### Agency Forms Submitted for OMB Review

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

#### Summary of Proposal(s):

(1) *Collection title:* Employer Reporting.

(2) *Form(s) submitted:* AA-12, G-88A.1, G-88A.2, BA-6a, BA-6a (Internet).

(3) *OMB Number:* 3220-0005.

(4) *Expiration date of current OMB clearance:* 8/31/2004.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Business or other for-profit, Individuals or Households.

(7) *Estimated annual number of respondents:* 495.

(8) *Total annual responses:* 3,418.

(9) *Total annual reporting hours:* 570.

(10) *Collection description:* Under the Railroad Retirement Act and the Railroad Unemployment Insurance Act, railroad employers are required to report service and compensation for employees needed to determine eligibility to and the amounts of benefits paid.

*Additional Information or Comments:* Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611-2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

**Chuck Mierzwa,**

*Clearance Officer.*

[FR Doc. 03-20219 Filed 8-7-03; 8:45 am]

**BILLING CODE 7905-01-M**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of August 11, 2003:

Closed Meetings will be held on Tuesday, August 12, 2003 at 10 a.m. and Thursday, August 14, 2003 at 9 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (9)(B) and (10) and 17 CFR 200.402(a)(3), (5), (6), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meetings.

The subject matter of the Closed Meeting scheduled for Tuesday, August 12, 2003 will be:

Institution and settlement of administrative proceedings of an enforcement nature;

Institution and settlement of injunctive actions;

Formal orders of investigation; and  
Opinions.

The subject matter of the Closed Meeting scheduled for Thursday, August 14, 2003 will be:

Institution and settlement of administrative proceedings of an enforcement nature;

Institution and settlement of injunctive actions; and

Formal orders of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact the Office of the Secretary at (202) 942-7070.

Dated: August 5, 2003.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-20340 Filed 8-5-03; 4:25 pm]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27707]

### Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

August 4, 2003.

Notice is hereby given that the following filing(s) has/have been made with the Commission under provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized

below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 29, 2003, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After August 29, 2003 the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### Xcel Energy, Inc., et al. (70-10152)

Xcel Energy, Inc. ("Xcel"), 800 Nicollet Mall, Minneapolis, Minnesota 55402, a holding company registered under the Act, and its wholly owned subsidiaries, NRG Energy, Inc. ("NRG") and NRG Power Marketing, Inc. ("NRG PMI"), both of 901 Marquette Avenue, Suite 2300, Minneapolis, Minnesota 55402-3265 (collectively, Xcel, NRG and NRG PMI are referred to as "Applicants" and NRG and NRG PMI are referred to as "NRG Applicants") file this application-declaration ("Application") under sections 6(a), 7, 11(f), 11(g), 12(a), 12(b), 12(e), 12(f), and rules 44, 45, 54, 60, 62, 63, and 64 of the Act.

Applicants seek authorization from the Commission for the solicitation regarding the debtor's second amended joint plan of reorganization ("Plan") under chapter 11 of the United States Bankruptcy Code ("Bankruptcy Code").<sup>1</sup> Specifically, Applicants request authorization for the solicitation regarding the Plan<sup>2</sup> under sections 11(f) and 11(g) of the Act, and authorization

<sup>1</sup> The Application includes the Plan and the third amended disclosure statement for debtors' second amended joint plan of reorganization pursuant to chapter 11 of the Bankruptcy Code ("Disclosure Statement").

<sup>2</sup> On May 14, 2003 ("Petition Date"), NRG and certain of NRG's subsidiaries filed voluntary petitions for bankruptcy ("Bankruptcy Petition") under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York ("Bankruptcy Court"). NRG Applicants and certain of NRG's other subsidiaries which are debtors in such bankruptcy proceedings ("Debtors").

under section 12(e) of the Act to solicit consents and approvals from the holders of the securities of the Debtors, along with other ancillary and related authorizations as are necessary to implement the Plan.

Applicants propose that the Commission issue: (1) An order under section 11(f) of the Act approving the Plan and certain related transactions under the Plan;<sup>3</sup> and (2) a report on the Plan under section 11(g) to accompany a solicitation of creditors and any other interest holders for approval of the Plan in the bankruptcy proceedings.<sup>4</sup>

#### I. Background

Xcel is a registered holding company that holds the securities of six public utility companies that serve electric and/or natural gas customers in twelve states.<sup>5</sup> These six utility subsidiaries (collectively, the "Utility Subsidiaries") are Northern States Power Company, a Minnesota corporation ("NSP-M"); Northern States Power Company, a Wisconsin corporation; Public Service Company of Colorado; Southwestern Public Service Company; Black Mountain Gas Company; and Cheyenne Light, Fuel and Power Company. As previously announced publicly, Xcel has entered into a contract to sell Black Mountain Gas Company.

Xcel also engages through subsidiaries in various other energy-related and nonutility businesses (collectively, "Nonutility Subsidiaries"). The Nonutility Subsidiaries that are directly or indirectly owned by Xcel include: NRG;<sup>6</sup> Seren Innovations, Inc., a

<sup>3</sup> Section 11(f) of the Act provides, in relevant part, that "a reorganization plan for a registered holding company or any subsidiary company thereof shall not become effective unless such plan shall have been approved by the Commission after opportunity for hearing prior to its submission to the court."

<sup>4</sup> Section 11(g) of the Act provides, in relevant part, that any solicitation for consents to or authorization of any reorganization plan of a registered holding company or any subsidiary company thereof shall be "accompanied or preceded by a copy of a report on the plan which shall be made by the Commission after an opportunity for a hearing on the plan and other plans submitted to it, or by an abstract of such report made or approved by the Commission."

<sup>5</sup> The Utility Subsidiaries' service territories include portions of Arizona, Colorado, Kansas, Michigan, Minnesota, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming.

<sup>6</sup> In August 2000, Northern States Power Company merged with New Century Energies, Inc. to form Xcel. In March 2001, NRG completed a public offering of 18.4 million shares of its common stock. Following this offering, Xcel owned, indirectly through its subsidiary Xcel Energy Wholesale Group Inc. ("Xcel Wholesale"), a 74% interest in NRG's common stock and class A common stock, representing 96.7% of the total voting power of NRG's common stock and class A common stock. On June 31, 2002, Xcel, through