

U.S. Nuclear Regulatory Commission, [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV); or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at 301-415-1101, verification number is 301-415-1966. A copy of the request for hearing and petition for leave to intervene must also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee. Attorney for the Applicant: David R. Lewis, Esq., Shaw Pittman, 2300 N Street, NW., Washington, DC 20037.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition, request and/or contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)-(viii).

Detailed information about the license renewal process can be found under the Nuclear Reactors icon at <http://www.nrc.gov/reactors/operating/licensing/renewal.html> on the NRC's website. Copies of the application to renew the operating licenses for the Nine Mile Point Nuclear Station, Units 1 and 2, are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852-2738, and at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications> the NRC's website while the application is under review. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html> under ADAMS accession number ML041490211. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, may contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdrr@nrc.gov](mailto:pdrr@nrc.gov).

The staff has verified that a copy of the license renewal application is also available to local residents near the Nine Mile Point Nuclear Station at the

Penfield Library (Selective Depository), Reference and Documents Department, State University of New York, Oswego, New York 13126.

Dated in Rockville, Maryland, this the 15th day of July 2004.

For the Nuclear Regulatory Commission.

**Pao-Tsin Kuo,**

*Program Director, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.*

[FR Doc. 04-16531 Filed 7-20-04; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. 50-327 and 50-328]**

### **Tennessee Valley Authority, Sequoyah Nuclear Plant, Unit Nos. 1 and 2; Exemption**

#### **1.0 Background**

The Tennessee Valley Authority (TVA, the licensee) is the holder of Facility Operating License Nos. DPR-77 and DPR-79, which authorize operation of the Sequoyah Nuclear Plant (facility or SQN), Unit Nos. 1 and 2, respectively. The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two pressurized water reactors located in Hamilton County, Tennessee.

#### **2.0 Request/Action**

Title 10 of the Code of Federal Regulations (10 CFR) part 50, Appendix G requires that pressure-temperature (P-T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. TVA requested that they be able to use Westinghouse Report WCAP-15315, "Reactor Vessel Closure Head/Vessel Flange Requirements Evaluation for Operating PWR [Pressurized-Water Reactor] and BWR [Boiling-Water Reactor] Plants" in lieu of 10 CFR, Appendix G, Footnote 2 to Table 1.

#### **3.0 Discussion**

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security, and

(2) when special circumstances are present. Therefore, in determining the acceptability of the licensee's exemption request, the staff has performed the following regulatory, technical, and legal evaluations to satisfy the requirements of 10 CFR 50.12 for granting the exemption.

#### **3.1 Regulatory Evaluation**

It is stated in 10 CFR part 50, Appendix G that "[t]he minimum temperature requirements \* \* \* pertain to the controlling material, which is either the material in the closure flange or the material in the beltline region with the highest reference temperature \* \* \* the minimum temperature requirements and the controlling material depend on the operating condition (*i.e.*, hydrostatic pressure and leak tests, or normal operation including anticipated normal operational occurrences), the vessel pressure, whether fuel is in the vessel, and whether the core is critical. The metal temperature of the controlling material, in the region of the controlling material which has the least favorable combination of stress and temperature, must exceed the appropriate minimum temperature requirement for the condition and pressure of the vessel specified in Table 1 [of 10 CFR Part 50, Appendix G]." Footnote 2 to Table 1 in 10 CFR part 50, Appendix G specifies that RPV minimum temperature requirements related to RPV closure flange considerations shall be based on "[t]he highest reference temperature of the material in the closure flange region that is highly stressed by bolt preload."

In order to address provisions of amendments to modify SQN Units 1 and 2 Technical Specifications (TSs) to implement a pressure-temperature limits report (PTLR) for each unit, TVA requested in its submittal dated September 6, 2002, that the staff exempt SQN Units 1 and 2 from the application of specific requirements of 10 CFR part 50, Appendix G, as they pertain to the establishment of minimum temperature requirements, for all modes of operation addressed by 10 CFR part 50, Appendix G, based on the material properties of the material of the RPV closure flange region that is highly stressed by the bolt preload. The licensee's initial technical basis for this exemption request was submitted on December 19, 2002. The requirements from which TVA requested that SQN Units 1 and 2 be exempted shall be referred to for the purpose of this exemption as "those requirements related to the application of Footnote 2 to Table 1 of 10 CFR Part 50, Appendix G." The proposed action is in accordance with the licensee's

application for exemption contained in its September 6, 2002, submittal, and is needed to support the TS amendments that are contained in the same submittal. The proposed amendments will revise the SQN Units 1 and 2 TSs to permit the implementation of a PTLR for each unit.

TVA's final, complete technical basis for the requested exemption was submitted to the NRC by letters dated June 24, 2003, and December 18, 2003. The licensee's June 24, 2003, letter included as an attachment Westinghouse report WCAP-15984-P, Revision 1, "Reactor Closure Head/Vessel Flange Requirements Evaluation for SQN Units 1 and 2." This revision of WCAP-15984 updated information provided in WCAP-15984-P, Revision 0, which had been submitted to the staff on December 19, 2002. The licensee's December 18, 2003, letter provided responses to specific questions raised by the NRC staff to clarify information in WCAP-15984-P, Revision 1.

### 3.2 Technical Evaluation

WCAP-15984-P, Revision 1 included a fracture mechanics analysis of postulated flaws in SQN Units 1 and 2 RPV closure flange regions under boltup, 100 degrees Fahrenheit per hour ( $^{\circ}\text{F/hr}$ ) heatup, 100  $^{\circ}\text{F/hr}$  cooldown, and steady-state conditions, with the heatup and cooldown transients being modeled in accordance with what would be permissible using P-T limit curves based on SQN Units 1 and 2 beltline materials. Westinghouse performed finite element modeling to calculate the stresses present at critical locations within the flange region and determined that the 100  $^{\circ}\text{F/hr}$  heatup transient was the most severe condition with the upper head-to-flange weld being the most limiting location. With these stresses, Westinghouse calculated the applied stress intensity ( $K_{I \text{ applied}}$ ) for semi-elliptical, outside diameter initiated, surface breaking flaws with an aspect ratio (length vs. depth) of 6:1, and with depths ranging from 0 to 90 percent of the thickness of the component wall. The  $K_{I \text{ applied}}$  values were calculated in accordance with the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) Section XI, Appendix G, subparagraph G-2220 requirements for the analysis of flange locations. Westinghouse then compared these  $K_{I \text{ applied}}$  values to ASME Code lower bound static crack initiation fracture toughness ( $K_{IC}$ ) values determined from the nil-ductility transition reference temperature ( $RT_{NDT}$ ) values for the SQN Units 1 and 2 RPV closure flange materials. Westinghouse

also provided an assessment of the potential for changes in the material  $RT_{NDT}$  values for the SQN Units 1 and 2 RPV closure flange materials due to thermal aging resulting from exposure to the RPV operating environment.

The use of ASME Code  $K_{IC}$  as the material property for the fracture mechanics analysis represents the most significant change between the analysis provided in WCAP-15984-P, Revision 1 and the analysis which was performed as the basis for establishing the minimum temperature requirements in 10 CFR part 50, Appendix G. The minimum temperature requirements related to Footnote 2 to Table 1 of 10 CFR part 50, Appendix G were incorporated into the Code of Federal Regulations in the early 1980s and were based on analyses which used ASME Code lower bound crack arrest/dynamic test fracture toughness ( $K_{IA}$ ) as the parameter for characterizing a material's ability to resist crack initiation and propagation. The use of ASME Code  $K_{IA}$  is always conservative with respect to the use of ASME Code  $K_{IC}$  for fracture mechanics evaluations, and its use in the evaluations which established the requirements in 10 CFR part 50, Appendix G was justified based on the more limited knowledge of RPV material behavior that was available in the early eighties. However, the use of ASME Code  $K_{IC}$ , not ASME Code  $K_{IA}$ , is consistent with the actual physical processes that would govern flaw initiation under conditions of normal RPV operation, including RPV heatup, cooldown, and hydrostatic and leak testing. Based on our current understanding of the behavior of RPV materials, the NRC staff has routinely approved licensees utilization of ASME Code  $K_{IC}$  as the basis for evaluating RPV beltline materials to demonstrate compliance with the intent of 10 CFR part 50, Appendix G through the licensee use of ASME Code Cases N-640 and N-641.

The minimum  $K_{IC}$  value given in ASME Code for a RPV steel, regardless of material  $RT_{NDT}$  value or temperature, is 33.2  $\text{ksi}\sqrt{\text{in}}$ . This value represents the "lower shelf" of the ASME Code  $K_{IC}$  curve. Based on information in WCAP-15984-P, Revision 1 and the licensee's December 18, 2003, response to NRC staff questions, it is apparent that the  $K_{I \text{ applied}}$  for any flaw up to  $1/4$  of the wall thickness ( $1/4T$ ) at the limiting location (refer to WCAP-15984-P, Revision 1, Figure 4-2), would not exceed 33.2  $\text{ksi}\sqrt{\text{in}}$  (including staff consideration of ASME Code structural factors) until between 1 and 2 hours into the 100 $^{\circ}\text{F/hr}$  heatup transient. The temperature at the tip of postulated flaws up to  $1/4 T$

size would be adequate at that point in time to ensure that the limiting SQN flange materials would exhibit fracture toughness properties in excess of ASME Code "lower shelf" behavior.

Hence, the analysis provided in WCAP-15984-P, Revision 1 has demonstrated that, for the most limiting transient addressed by 10 CFR Part 50, Appendix G, the combination of factors which would have to exist (high stresses in the RPV flange region along with the metal of the flange region being at low temperature) cannot exist simultaneously, and the structural integrity of the SQN Units 1 and 2 RPV closure flange materials will not be challenged by facility operation in accordance with P-T limit curves based consideration of SQN Units 1 and 2 beltline materials. Therefore, the more conservative minimum temperature requirements related to Footnote 2 to Table 1 of 10 CFR part 50, Appendix G are not necessary to meet the underlying intent of 10 CFR part 50, Appendix G, to protect SQN Units 1 and 2 RPVs from brittle failure during normal operation under both core critical and core non-critical conditions and RPV hydrostatic and leak test conditions.

### 3.3 Legal Basis for Exemption

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. The staff accepts the licensee's determination that an exemption would be required to permit TVA to not meet those requirements related to the application of Footnote 2 to Table 1 of 10 CFR part 50, Appendix G. The staff examined the licensee's rationale to support the exemption request and agrees that based on the information provided in WCAP-15984-P, Revision 1 and TVA's December 18, 2003, letter, an acceptable technical basis has been established to exempt SQN Units 1 and 2 from requirements related to the application of Footnote 2 to Table 1 of 10 CFR part 50, Appendix G. The technical basis provided by TVA has established that an adequate margin of safety against brittle failure would continue to be maintained for SQN Units 1 and 2 RPVs without the application of those requirements related to the application of Footnote 2 to Table 1 of 10 CFR part 50, Appendix G, for normal operation under both core critical and core non-

critical conditions and RPV hydrostatic and leak test conditions. Hence, the staff concludes that, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of 10 CFR part 50, Appendix G will be achieved without the application of those requirements related to the application of Footnote 2 to Table 1 of 10 CFR part 50, Appendix G. Therefore, the staff concludes that requesting the exemption under the special circumstances of 10 CFR 50.12(a)(2)(ii) is appropriate, and should be granted to TVA such that those requirements related to the application of Footnote 2 to Table 1 of 10 CFR part 50, Appendix G need not be applied to SQN Units 1 and 2.

#### 4.0 Conclusion

Accordingly, 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 TVA an exemption from those requirements related to the application of Footnote 2 to Table 1 of 10 CFR part 50, Appendix G, for SQN Units 1 and 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant effect on the quality of the human environment (69 FR 32372).

This exemption is effective upon issuance.

Dated in Rockville, Maryland, this 7th day of July, 2004.

For the Nuclear Regulatory Commission.

**Ledyard B. Marsh,**

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

[FR Doc. 04-16532 Filed 7-20-04; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Nuclear Waste; Renewal Notice

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** This notice is to announce the renewal of the Advisory Committee on Nuclear Waste (ACNW) for a period of two years.

**SUPPLEMENTARY INFORMATION:** The U.S. Nuclear Regulatory Commission (NRC) has determined that the renewal of the charter for the Advisory Committee on

Nuclear Waste for the two year period commencing on July 15, 2004, is in the public interest, in connection with duties imposed on the Commission by law. This action is being taken in accordance with the Federal Advisory Committee Act, after consultation with the Committee Management Secretariat, General Services Administration.

The purpose of the Advisory Committee on Nuclear Waste is to report to and advise the Nuclear Regulatory Commission (NRC) on nuclear waste management. The bases of ACNW reviews include 10 CFR Parts 20, 40, 50, 60, 61, 63, 70, 71 and 72, and other applicable regulations and legislative mandates. In performing its work, the Committee will examine and report on those areas of concern referred to it by the Commission and may undertake studies and activities on its own initiative, as appropriate. Emphasis will be on protecting the public health and safety in the disposal of nuclear waste. The Committee will undertake studies and activities related to nuclear waste management such as transportation, storage and disposal facilities, the effects of low levels of ionizing radiation, decommissioning, materials safety, application of risk-informed, performance-based regulations, and evaluation of licensing documents, rules and regulatory guidance. The Committee will interact with representatives of the public, NRC, ACRS, other Federal agencies, State and local agencies, Indian Tribes, and private, international and other organizations as appropriate to fulfill its responsibilities.

**FOR FURTHER INFORMATION CONTACT:** John T. Larkins, Executive Director of the Committee, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-7360.

Dated July 15, 2004.

**Andrew L. Bates,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 04-16530 Filed 7-20-04; 8:45 am]

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## OVERSEAS PRIVATE INVESTMENT CORPORATION

### Sunshine Act; Public Hearing

July 22, 2004.

OPIC's Sunshine Act notice of its public hearing was published in the **Federal Register** (Volume 69, Number 127, Page 40421) on July 2, 2004. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's public

hearing in conjunction with OPIC's July 29, 2004 Board of Directors meeting scheduled for 10 AM on July 29, 2004 has been cancelled.

#### FOR FURTHER INFORMATION CONTACT:

Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336-8438, via facsimile at (202) 218-0136, or via email at [cdown@opic.gov](mailto:cdown@opic.gov).

Dated: July 19, 2004.

**Connie M. Downs,**

*OPIC Corporate Secretary.*

[FR Doc. 04-16674 Filed 7-19-04; 10:32 am]

BILLING CODE 3210-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50019; File No. SR-Amex-2004-48]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto by American Stock Exchange LLC Relating to the Listing and Trading of Notes Linked to the Performance of the Standard and Poor's 500 Index

July 14, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 14, 2004, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in items I and II below, which items have been prepared by the Exchange. On July 12, 2004, the Amex filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See letter from Jeffrey Burns, Associate General Counsel, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated July 7, 2004 ("Amendment No. 1"). In Amendment No. 1, the Amex elaborated on the size of the initial issuance and clarified that the dissemination of the value of the S&P 500 would be over the Consolidated Tape Association's Network B. In addition, in Amendment No. 1, the Amex clarified certain adjustments that will be made to the methodology of calculating the value of the S&P 500.