

Record of Proceedings, Including Reasons for Decision

In the Matter of

Applicant MDS Nordion

Subject Financial Guarantee for the Future
Decommissioning of the Class IB Nuclear
Substance Processing Facility

Hearing Date June 29, 2006

RECORD OF PROCEEDINGS

Applicant: MDS Nordion

Address/Location: 447 March Rd., Ottawa, ON, K2K 1X8

Purpose: Acceptance of the financial guarantee for the future decommissioning of the Class IB Nuclear Substance Processing Facility

Application received: May 25, 2006

Date(s) of hearing: June 29, 2006

Location: Canadian Nuclear Safety Commission (CNSC) Public Hearing Room, 280 Slater St., 14th. Floor, Ottawa, Ontario

Members present: L. J. Keen, Chair
C. R. Barnes
A. Graham

Secretary: M. Leblanc
Recording Secretary: M. Young
General Counsel: J. Lavoie

Licence condition: Requirements met
Date of Decision: June 29, 2006

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Introduction

1. MDS Nordion, a division of MDS Canada Inc., has requested that the Canadian Nuclear Safety Commission (CNSC¹) accept the financial guarantee for the future decommissioning of the Class IB Nuclear Substance Processing Facility located in Ottawa, Ontario. MDS Nordion submitted the financial guarantee pursuant to a condition in its operating licence NSPFOL-11A.01/2015. The financial guarantee was submitted on May 25, 2006 in the form of a letter of credit.

Issues

2. In considering the request, the Commission was required to decide if MDS Nordion's letter of credit constitutes an acceptable financial guarantee for the future decommissioning of the Class IB Nuclear Substance Processing Facility.

Hearing

3. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to review the application.
4. The Panel of the Commission (hereafter referred to as the Commission), in making its decision, considered information presented for a hearing held on June 29, 2006 in Ottawa, Ontario. During the hearing, the Commission considered written submissions from CNSC staff (CMD 06-H121) and MDS Nordion (CMD 06-H121.1).
5. The hearing was conducted in accordance with Rule 3 of the *Canadian Nuclear Safety Commission Rules of Procedure*². In establishing the process, a standing panel on procedural matters determined that it was not necessary to hold a public hearing on the matter, and the hearing was conducted by a panel of three commission members, based on written submissions.

¹ In this *Record of Proceedings*, the *Canadian Nuclear Safety Commission* is referred to as the "CNSC" when referring to the organization and its staff in general, and as the "Commission" when referring to the tribunal component.

² SOR/2000-211

Decision

6. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Proceedings*, the Commission is satisfied that MDS Nordion's financial guarantee and preliminary decommissioning plan meet the requirements of the CNSC. Therefore,

the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act* (NSCA), accepts the standby letter of credit for \$15.4 million as the financial guarantee provided by MDS Nordion for the future decommissioning of the MDS Nordion Class IB Nuclear Substance Processing Facility located in Ottawa, Ontario.

Issues and Commission Findings

7. The Commission considered whether MDS Nordion provided the financial guarantee in a form that is acceptable to the Commission. In making its decision under section 24 of the NSCA, the Commission also considered whether the financial guarantee would have any impact on the qualifications of the licensee to carry out the activities authorized under the current licences, and the adequacy of the measures in place for protecting the environment, the health and safety of persons, national security and international obligations to which Canada has agreed.

Preliminary Decommissioning Plan and Financial Guarantee

8. The Commission notes that MDS Nordion submitted a proposed financial guarantee and Preliminary Decommissioning Plan (PDP) at a public hearing³, held on June 30, 2005 and August 18, 2005 for the licence renewal of MDS Nordion's Class IB Nuclear Substance Processing Facility. As the PDP was not acceptable at that time, the Commission noted that the decommissioning financial guarantee could not be established. Therefore a licence condition was included in the operating licence NSPFOL-11A.01/2015, requiring MDS Nordion to provide an acceptable financial guarantee for the future decommissioning of the facility before June 1, 2006.
9. CNSC staff reported that MDS Nordion revised the PDP in October 2005 to address the issues raised at the licence renewal hearing held on June 30 and August 18, 2005. CNSC staff reviewed the revised PDP and associated cost estimate. CNSC staff stated the PDP was acceptable and found the total estimated costs for decommissioning of \$15.4 million were reasonable. CNSC staff stated that the estimation was made using reasonable costs, including labour costs, decontamination costs, waste disposal costs, environmental assessment and licensing costs, plus a 30% contingency.

³ See the Record of Proceedings, including Reasons for Decision, on the matter of the *Application for the Renewal of the Operating Licence for MDS Nordion's Nuclear Substance Processing Facility in Ottawa*, dated August 18, 2005.

10. MDS Nordion proposed a standby letter of credit as the financial instrument. Pursuant to licence condition 12.1 of NSPFOL-11A.01/2015, MDS Nordion submitted the letter of credit dated on May 18, 2006. CNSC staff stated that this was an acceptable financial guarantee as identified in the guidance material CNSC Regulatory Guide G-206⁴. In this respect, CNSC staff noted that the financial guarantee meets the acceptance criteria of liquidity, certainty of value, adequacy of value and continuity.
11. Based on the information provided, the Commission is satisfied that the cost estimate for the future decommissioning is sufficient to decommission the facility. The Commission is also satisfied that the letter of credit was submitted within the required timeframe and that it is an acceptable financial instrument.

Qualifications and Protection Measures

12. The Commission is satisfied that the financial guarantee does not represent any physical works or changes to the form and substance of the existing licences, the existing facilities, the facility operations, the monitoring programs, licence conditions, or any other obligations under the existing licences or under the NSCA.
13. Based on this information, the Commission concludes that the financial guarantee would not affect the qualifications of the licensee nor the provisions it would make for the protection of the environment, the health and safety of persons, and to national security and the measures required to implement international obligations to which Canada has agreed.

Conclusion

14. The Commission has considered the information and submissions of the CNSC staff and MDS Nordion as presented in the material available for reference on the record.
15. The Commission is satisfied that the financial guarantee submitted by MDS Nordion is acceptable.
16. The Commission therefore accepts the standby letter of credit for \$15.4 million as the financial guarantee provided by MDS Nordion for the future decommissioning of the MDS Nordion Class IB Nuclear Substance Processing Facility located in Ottawa, Ontario.

⁴ Regulatory Guide G-206, *Financial Guarantees for the Decommissioning of Licensed Activities*, published by the Canadian Nuclear Safety Commission, dated June 2000

17. The Commission concludes that MDS Nordion has met the requirement of condition 12.1 of the licence NSPFOL-11A.01/2015.

Linda J. Keen
President,
Canadian Nuclear Safety Commission

Date of decision: June 29, 2006

Date of release of Reasons for Decision: October 18, 2006