



Canadian Nuclear
Safety Commission

Commission canadienne
de sûreté nucléaire

Record of Proceedings, Including Reasons for Decision

In the Matter of

Applicant New Brunswick Power Nuclear Corporation

Subject Application to Transfer the Point Lepreau
Nuclear Generating Station Power Reactor
Operating Licence

Hearing Date September 6, 2013

RECORD OF PROCEEDINGS

Applicant: New Brunswick Power Nuclear Corporation

Address/Location: Point Lepreau Generating Station,
PO Box 600, Lepreau, NB E5J 2S6

Purpose: Application to transfer the Point Lepreau Nuclear Generating
Station Power reactor Operating Licence

Application received: April 23 and July 26, 2013

Date of hearing: September 6, 2013

Location: Canadian Nuclear Safety Commission (CNSC) 280 Slater St.,
Ottawa, Ontario

Members present: M. Binder, Chair

Assistant Secretary: M. Leblanc
Recording Secretary: S. Gingras

Licence: Transferred

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1.0 INTRODUCTION

1. New Brunswick Power Nuclear Corporation (NBPN) has submitted a request to the Canadian Nuclear Safety Commission¹ (CNSC), under subsection 24(2) of the *Nuclear Safety and Control Act*² (NSCA), for the transfer of the current Point Lepreau Nuclear Generating Station (PLNGS) Power Reactor Operating Licence from NBPN to New Brunswick Power Corporation (NB Power).
2. The Government of New Brunswick has decided to reintegrate the separate operating companies of NB Power back into a single vertically integrated utility. NBPN's application is to ensure alignment with the New Brunswick *Electricity Act*, which received Royal Assent from the New Brunswick Legislature on June 21, 2013 and is expected to come into force on October 1, 2013.

Issue

3. In considering the application, the Commission was required to decide, pursuant to subsection 24(4) of the *Nuclear Safety and Control Act*³ (NSCA):
 - a) if NB Power is qualified to carry on the activity that the amended licence would authorize; and
 - b) if in carrying on that activity, NB Power would make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed.

Hearing

4. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to review the application. The Commission, in making its decision, considered information presented for a hearing held on September 6, 2013 in Ottawa, Ontario. During the hearing, the Commission considered written submissions from CNSC staff (CMD 13-H104) and NBPN (CMD 13-H104.1).

2.0 DECISION

5. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Proceedings*, the Commission concludes that NB Power has met the conditions of subsection 24(4) of the NSCA. Therefore,

¹ 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 Statutes of Canada (S.C.) 1997, chapter (c.) 9.

³ Statutes of Canada (S.C.) 1997, chapter (c.) 9.

6. the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, transfers the Power Reactor Operating Licence PROL 17.02/2017 from New Brunswick Power Nuclear Corporation to New Brunswick Power Corporation for the Point Lepreau Nuclear Facility located in the Lepreau Peninsula, New Brunswick. The transferred licence is valid upon occurrence of the following:

Bill 39 - the *Electricity Act*, is passed and proclaimed in force; New Brunswick Power Corporation is constituted pursuant to the provisions subsection 3(1) of the *Electricity Act*; and no substantive amendments have been made to the final form of the *Electricity Act* with respect to the provisions affecting New Brunswick Power Corporation required for the operation, obligations and liabilities of the Point Lepreau Nuclear Generating Station.

The licence is valid until June 30, 2017.

7. The Commission includes in the licence the conditions as recommended by CNSC staff in CMD 13-H104.

3.0 ISSUES AND COMMISSION FINDINGS

8. CNSC staff reported that the integration of the NB Power group of companies will be accomplished by the enactment of a new provincial *Electricity Act*, which was introduced to the New Brunswick legislature on May 7, 2013. Subsequently, the new *Electricity Act*⁴ received Royal Assent from the New Brunswick Legislature on June 21, 2013 and is expected to come into force on October 1, 2013.
9. CNSC staff further reported that, under the authority of the new Act, NBPN will be amalgamated with the other NB Power companies, which together will become the integrated NB Power. All assets, liabilities, rights and obligations of NBPN will, by virtue of this corporate amalgamation, become the assets, liabilities, rights and obligations of NB Power. This application for a licence transfer is to ensure proper alignment of the licence with the new Act. CNSC staff also noted having reviewed NBPN's application and considers that the information contained therein is in line with the provisions of the *Electricity Act*.
10. CNSC staff also noted that the Province of New Brunswick will continue to be the sole owner of the new vertically integrated NB Power. The new *Electricity Act* will deem both NB Power and its marketing subsidiary to be Crown corporations and agents of the Crown in right of the Province of New Brunswick for all purposes. The Province of New Brunswick will therefore ultimately be financially responsible for all actions and obligations of the utility.

⁴ SNB 2013, c7

11. Since the Province of New Brunswick will ultimately be responsible for all actions and obligations of NB Power, CNSC staff requested that all financial instruments related to financial guarantees be updated to reflect the new corporate name, as required, on the day that the new *Electricity Act* comes into force. NBPN stated that they will comply with this request.
12. In its *Record of Proceedings, including Reasons for Decision* issued on February 17, 2012, the Commission renewed the Point Lepreau Operating licence, which is now valid until June 30, 2017. CNSC staff noted that NBPN indicated in its submission that the information contained in NBPN's application to renew the PLNGS operating licence remains applicable, other than the above described reintegration of NB Power and the fact that the refurbishment outage is now complete.
13. CNSC staff considers that, since there is no substantive change to the operation of the PLNGS which would result from the proposed reintegration, the transfer of the PROL is administrative in nature and in no way changes the legal requirements contained within the current operating licence. Also, no change to the governance of the PLNGS is planned as a result of the corporate restructuring, with only administrative changes required in NB Power's Nuclear Management Manual.
14. CNSC staff reported having completed an environmental assessment (EA) determination for this licence transfer application, and concluded that no federal EA is required.
15. CNSC staff has also determined that, since this licence transfer is an administrative change, the Aboriginal Duty to consult does not arise.

4.0 CONCLUSION

16. The Commission has considered the information and submissions from NBPN and CNSC staff and is satisfied that the requested licence transfer is administrative in nature and will not adversely impact the safety of the PLNGS operations. The Commission is also satisfied that aboriginal consultation is not necessary in relation to the proposed amendments.
17. The Commission is also satisfied that all applicable requirements of the CEAA 2012 have been fulfilled.



Michael Binder
President,
Canadian Nuclear Safety Commission

SEP 06 2013

Date