Canadian Nuclear Safety Commission

Commission canadienne de sûreté nucléaire

# Record of Proceedings, Including Reasons for Decision

In the Matter of

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| Applicant | Atomic Energy of Canada Limited |
| Subject | Request for Five Licence Transfers to, and Request for Two Specific Exemptions for, Canadian Nuclear Laboratories Limited |
| Hearing Date | October 22, 2014 |

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Canada

# RECORD OF PROCEEDINGS

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| Applicant: | Atomic Energy of Canada Limited |
| Address/Location: | Chalk River Laboratories, Chalk River, Ontario K0J 1J0 |
| Purpose: | Request for Five Licence Transfers to, and Request for Two Specific Exemptions for, Canadian Nuclear Laboratories Limited |
| Application received: | July 29, 2014 |
| Member present: | M. Binder, Chair |

**Licences:** Five Licences are Transferred
**Exemptions**: Two Specific Exemptions are Granted

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## 1.0 INTRODUCTION

1. Atomic Energy of Canada Limited (AECL) has applied to the Canadian Nuclear Safety Commission[1] (CNSC), under subsection 24(2) of the *Nuclear Safety and Control Act*[2] (NSCA), to transfer five licences to a new entity called Canadian Nuclear Laboratories Limited (CNL):

    - Nuclear Research and Test Establishment Operating Licence, Chalk River Laboratories (NRTEOL-01.01/2016)
    - Nuclear Research and Test Establishment Decommissioning Licence, Whiteshell Laboratories (NRTEDL-08.02/2018)
    - Waste Nuclear Substance Licence, Port Hope Long-Term Low-Level Radioactive Waste Management Project (WNSL-W1-2310.00/2022)
    - Waste Nuclear Substance Licence, Port Granby Long-Term Low-Level Radioactive Waste Management Project (WNSL-W1-2311.00/2021)
    - Waste Facility Decommissioning Licence, Prototype Waste Facilities (Douglas Point, Gentilly-1, Nuclear Power Demonstration) (WFDL-W4-332.00/2034)

2. AECL has also requested - on behalf of CNL - the issuance of exemptions with respect to:

    - *Class II Nuclear Facilities and Prescribed Equipment Regulations*[3] – Sections 15.01(1) and 15.02 concerning the appointment of a radiation safety officer (RSO) at Chalk River Laboratories (CRL), and
    - *CNSC Cost Recovery Fees Regulations*[4] for work activities related to the management of historic low-level radioactive waste liabilities performed by the Low-Level Radioactive Waste Management Office and Port Hope Area Initiative Management Office on behalf of the Government of Canada.

3. This application by AECL is submitted following the Government of Canada restructuring of AECL that requires the reorganization of its workforce into CNL, a wholly-owned subsidiary of AECL, as an enabling step in the plan to ultimately adopt a Government-owned, Contractor-operated (GoCo) contract model. CNL was incorporated as a wholly-owned subsidiary of the AECL parent Crown Corporation on May 30, 2014. The stand-up (i.e., bringing into operation) of CNL is expected to occur on November 3, 2014.

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[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] Statutory Orders and Regulations (SOR)/2000-205.
[4] SOR/2003-212.

Issue

4. In considering the application, the Commission was requested to decide, pursuant to subsection 24(4) of the NSCA:

   a) if CNL is qualified to carry on the activities that the transferred licences would authorize; and

   b) if in carrying on those activities, CNL 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.

5. In considering the application, the Commission was also requested to decide, pursuant to section 7 of the NSCA and section 11 of the *General Nuclear Safety and Control Regulations*[5] (GNSCR), if granting an exemption will not

   a) pose an unreasonable risk to the environment or the health and safety of persons;

   b) pose an unreasonable risk to national security; or

   c) result in a failure to achieve conformity with measures of control and international obligations to which Canada has agreed.

Hearing

6. 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 provided for a hearing based on written materials held on October 22, 2014 in Ottawa, Ontario. The Commission considered written submissions from AECL (CMD 14-H117.1) and CNSC staff (CMD 14-H117).

## 2.0 DECISIONS

7. 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 CNL has met the conditions of subsection 24(4) of the NSCA. Therefore,

[5] SOR/2000-202.

The Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, transfers the five licences previously issued to Atomic Energy of Canada Limited for:

- the Chalk River Laboratories (NRTEOL-01.01/2016)
- the Whiteshell Laboratories (NRTEDL-08.02/2018)
- the Port Hope Long-Term Low-Level Radioactive Waste Management Project (WNSL-W1-2310.00/2022)
- the Port Granby Long-Term Low-Level Radioactive Waste Management Project (WNSL-W1-2311.00/2021)
- the Prototype Waste Facilities ((Douglas Point, Gentilly-1, Nuclear Power Demonstration) (WFDL-W4-332.00/2034)

to Canadian Nuclear Laboratories Limited. The transfer:

- the Chalk River Laboratories (NRTEOL-01.02/2016)
- the Whiteshell Laboratories (NRTEDL-08.03/2018)
- the Port Hope Long-Term Low-Level Radioactive Waste Management Project (WNSL-W1-2310.01/2022)
- the Port Granby Long-Term Low-Level Radioactive Waste Management Project (WNSL-W1-2311.01/2021)
- the Prototype Waste Facilities ((Douglas Point, Gentilly-1, Nuclear Power Demonstration) (WFDL-W4-332.01/2034)

will be effective upon receipt of written confirmation, from both Atomic Energy of Canada Limited and Canadian Nuclear Laboratories Limited that all steps of the reorganization are complete.

8. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Proceedings*, the Commission considers that the requirements of section 11 of the GNSCR have been met. Therefore,

The Commission, pursuant to section 7 of the *Nuclear Safety and Control Act*, exempts Canadian Nuclear Laboratories Limited from the requirements of sections 15.01 and 15.02 of the CNSC *Class II Nuclear Facilities and Prescribed Equipment Regulations* in relation to the requirement for a certified radiation safety officer. This exemption is effective upon receipt of written confirmation, from both Atomic Energy of Canada Limited and Canadian Nuclear Laboratories Limited that all steps of the reorganization are complete.

The Commission, pursuant to section 7 of the *Nuclear Safety and Control Act*, exempts Canadian Nuclear Laboratories Limited from the CNSC's *Cost Recovery Fees Regulations* with respect to the licensed activities at the Low Level Radioactive Waste Management Office, specifically, the Port Hope Area

Initiative, the Port Hope Radioactive Waste Management Facility and Pine Street Extension Temporary Storage Site. This exemption is effective upon receipt of written confirmation, from both Atomic Energy of Canada Limited and Canadian Nuclear Laboratories Limited that all steps of the reorganization are complete.

## 3.0 ISSUES AND COMMISSION FINDINGS

*Licence transfers*

9. AECL has submitted a request for the transfer of five AECL Commission-issued licences into a new entity, CNL. AECL has identified the changes to AECL's management system, governing documentation and organizational design arising from the reorganization, and has shown that the CNL management system manual is nearly identical to the most recent revision of the AECL manual. CNSC staff concluded that CNL will perform practically all of the responsibilities currently performed by AECL. CNSC staff agreed that the changes to the management system are administrative in nature and that there are no anticipated material impacts to roles and responsibilities, processes or systems, or facilities and sites that will be reorganized into CNL.

10. CNSC staff advised that the policies, programs and procedures within the Safety and Control Areas for the five licences remain unchanged. CNSC staff's compliance activities have demonstrated that AECL's management system and nuclear safety programs remain acceptable. CNSC staff will monitor activities at the CRL site to ensure that CNL, in its transition from AECL, meet applicable laws and regulations, guidelines and agreements.

11. CNSC staff reported that the requirements and expectations found within the licences and their associated licence condition handbooks (LCHs) will remain the same. The authority levels for making decisions (i.e., levels that are defined in the LCH) for making changes to the LCH will also remain the same.

12. CNSC staff has reviewed the request and concludes that the information submitted is complete and that the request is acceptable for the transfer of licences.

*Request for Exemption from the Class II Nuclear Facilities and Prescribed Equipment Regulations*

13. AECL has requested, as part of the transition, that CNL be exempted from the requirement to appoint a RSO. In its decision dated September 30, 2013, the Commission had previously approved at CRL AECL's request for an exemption from the requirements of Section 15.01 (1) and 15.02 of the *Class II Nuclear Facilities and Prescribed Equipment Regulations* concerning the appointment of a RSO at CRL.

14. CNSC staff explained that no single position at CRL carries out the functions of a RSO,

and that the duties of a RSO are already fulfilled by different individuals within the AECL management structure. AECL has also demonstrated that their management systems and nuclear safety programs are acceptable. CNSC staff noted that the reasoning for making the decision to exempt AECL from appointing a RSO would equally apply to CNL as the roles and responsibilities are not anticipated to change. Therefore, CNSC staff recommends that the exemption be granted to CNL.

*Request for Exemption from the CNSC Cost Recovery Fees*

15. AECL has requested, as part of the transition, that CNL be exempted from the Cost Recovery Fees. CNSC staff reported that, in a decision dated October 18, 2004, the Commission had exempted AECL from the cost recovery fees with respect to licensed activities at the Low-Level Radioactive Waste Management Office. The Commission agreed that it was inappropriate to charge costs to a government agency and to pay fees back to itself for assuming its obligations. CNSC staff also noted that, as contamination from those sites did not originate from the activities of the federal department or agency, cost recovery fees should not be applied. The funds could also be more appropriately used for further cleanup activities in the Port Hope area. Therefore, CNSC staff recommends that the same exemption be granted to CNL.

## 4.0 CONCLUSION

16. The Commission has considered the information and submissions from AECL and CNSC staff. The Commission concludes that the conditions set out in subsection 24(4) of the NSCA and section 11 of the GNSCR have been met.

17. The Commission, pursuant to section 24(4) of the NSCA, transfers to CNL the five AECL licences described above.

18. The Commission, pursuant to section 7 of the NSCA, exempts CNL from the application of sections 15.01 and 15.02 of the *Class II Regulations* in relation to the requirement for a certified RSO. The Commission also exempts CNL from the CNSC's *Cost Recovery Fees Regulations* with respect to the licensed activities at the Low Level Radioactive Waste Management Office.

M. Binder

OCT 2 2 2014

Michael Binder
President,
Canadian Nuclear Safety Commission

Date