

Record of Proceedings, Including Reasons for Decision

In the Matter of

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| Applicant | <u>General Electric Canada Company Inc.</u> |
| Subject | Application for the Issuance of New Licences for the Toronto and Peterborough Class IB Nuclear Fuel Operating Facilities |
| Hearing Date | May 16, 2007 |

RECORD OF PROCEEDINGS

Applicant: General Electric Canada Company Inc.

Address/Location: 107 Park Street North, Peterborough, Ontario K9J 7B5

Purpose: Application for the issuance of new licences for the Toronto and Peterborough Class IB nuclear fuel operating facilities

Application received: May 1, 2007

Date of hearing: May 16, 2007

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

Members present: L.J. Keen, Chair

Secretary: K. McGee

Recording Secretary: M. Young

General Counsel: S. Maislin Dickson

Licences: Revoked/Issued
Date of Decision: May 16, 2007

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Introduction

1. General Electric Canada Company Inc. (GE Canada) holds nuclear fuel facility operating licences for its facilities in Peterborough, Ontario and Toronto, Ontario. The current nuclear fuel facility operating licences are FFOL-3621.0/2010 for the Peterborough facility and FFOL-3622.0/2010 for the Toronto facility. GE Canada intends to transfer its nuclear power generation products and services business, including the facilities, to a wholly-owned subsidiary, GE-Hitachi Nuclear Energy Canada Inc. (GE-Hitachi) on June 4, 2007. Hitachi Canada Inc. (Hitachi) will purchase a 40% interest in GE-Hitachi.
2. GE Canada applied to the Canadian Nuclear Safety Commission (CNSC¹) for the issuance of new nuclear fuel facility operating licences for its facilities in Peterborough, Ontario and Toronto, Ontario. GE Canada proposed that the current licences issued to GE Canada be revoked on June 4, 2007 and the new licences be issued to GE-Hitachi concurrently.

Issue

3. In considering the application, the Commission was required to decide, pursuant to subsection 24(4) of the *Nuclear Safety and Control Act*²:
 - a) if GE-Hitachi is qualified to carry on the activity that the licences would authorize; and
 - b) if, in carrying on that activity, GE-Hitachi 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.

Public Hearing

4. The Commission, in making its decision, considered information presented for a hearing held on May 16, 2007 in Ottawa, Ontario. The hearing was conducted in accordance with the *Canadian Nuclear Safety Commission Rules of Procedure*³. During the hearing, the Commission received written submissions from CNSC staff (CMD 07-H124) and GE Canada (CMD 07-H124.1). 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 one Commission member, 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 S.C. 1997, c. 9.

³ S.O.R./2000-211.

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 GE-Hitachi is qualified to carry on the activity that the licences will authorize. The Commission is also satisfied that GE-Hitachi, in carrying on that activity, will 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. Therefore,

the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, revokes Fuel Facility Operating Licences FFOL-3621.0/2010 for General Electric Canada Company Inc.'s facility located in Peterborough, Ontario and FFOL-3622.0/2010 for General Electric Canada Company Inc.'s facility located in Toronto, Ontario. The licences are revoked as of June 4, 2007.

Concurrently, the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, issues Fuel Facility Operating Licences FFOL-3621.0/2010 for GE-Hitachi Nuclear Energy Canada Inc.'s facility located in Peterborough, Ontario and FFOL-3622.0/2010 for GE-Hitachi Nuclear Energy Canada Inc.'s facility located in Toronto, Ontario. The licences are valid from June 4, 2007 until December 31, 2010, unless suspended, amended, revoked or replaced.

6. The Commission includes in the licence the conditions as recommended by CNSC staff in CMD 07-H124.

Issues and Commission Findings

7. In making its licensing decision, the Commission considered a number of issues relating to GE-Hitachi's qualification to carry out the proposed activities and the adequacy of the proposed measures for protecting the environment, the health and safety of persons, national security and international obligations to which Canada has agreed.

Qualifications and Protection Measures

8. In its submission, GE Canada stated that although the assets and liabilities relating to the Canadian Nuclear Business will be transferred to GE-Hitachi, there will be no change to the operation of the facilities. GE Canada stated that operations at both facilities will continue to be conducted after the closing of the transaction by the same personnel that conducted such operations prior to the closing of the transaction.

Furthermore, GE Canada stated that GE-Hitachi will not make any changes to the facilities, processes and organization, quality assurance, radiological protection, nuclear material control, or safety and emergency plans and procedures that are currently in effect at the facilities.

9. GE Canada stated that it is not requesting any changes to the Site Decommissioning Plans for either of the facilities, and GE-Hitachi will provide the Commission with an irrevocable standby letter of credit, with terms and conditions identical to the current guarantee, apart from the name change, to replace the letter of credit that is currently held by the Commission as a financial guarantee to secure GE Canada's decommissioning obligations for the two facilities.
10. GE Canada noted that its documents for both facilities, including the Nuclear Fuel Facility Licensing Document, Radiation Protection Manual, Quality Assurance Program, and Public Information Program will also remain unchanged, apart from the name change.
11. CNSC staff stated that there is no change in the effective control over the operations of the facilities, since the same GE personnel will continue to carry on the activity described in the licence. CNSC staff confirmed that revoking the existing licenses from GE Canada and issuing new licences to GE-Hitachi properly reflects the change of operator with no violation of subsection 24(8) of the NSCA.

Current Licence Performance

12. CNSC staff stated that it has conducted four compliance inspections during the current licence period, which began on January 1, 2006. CNSC staff reported that there are no current actions outstanding at either site and each site received a 'meets expectations' summary upon the conclusion of the compliance inspections and issuance of the inspection reports.
13. On the subject of Radiation Protection, CNSC staff stated that there have been no events at either site that resulted in unanticipated radiation dose to nuclear energy workers (NEWs), the public or the environment. CNSC staff reported that GE Canada has maintained its historical trend rates at the two sites. CNSC staff stated that these rates include whole body dose to NEWs and skin dose to NEWs, air emission monitoring, liquid effluent monitoring, and boundary air monitoring (which is not required at the Peterborough facility).
14. On the subject of Fire and Emergency Response, CNSC staff stated that GE Canada has continued to respect the current licence conditions pertaining to fire response and emergency management planning. CNSC staff stated that it has been kept informed of GE Canada's recent efforts in these areas, including an emergency management exercise at the Toronto facility and tabletop exercise with Toronto Fire Services.

15. Based on this information, the Commission is of the opinion that GE-Hitachi is qualified to carry on the activity that the licences will authorize and will continue to 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.

Application of the *Canadian Environmental Assessment Act*

16. Before making a licensing decision, the Commission must be satisfied that all applicable requirements of the *Canadian Environmental Assessment Act*⁴ (CEAA) have been fulfilled.
17. CNSC staff reported that it had completed an Environmental Assessment (EA) determination. CNSC staff stated that the proposal to issue new Nuclear Fuel Facility Operating Licenses to GE-Hitachi for the Peterborough and Toronto facilities and subsequently revoke GE Canada's operating licences for those facilities is a project according to section 2 of the CEAA. CNSC staff explained that the transfer from GE Canada to GE-Hitachi resulting in a new company corresponds to an undertaking in relation with a physical work, namely the continuation of the operations of the nuclear fuel facilities.
18. CNSC staff stated that the project meets the criteria of subsection 2.1(1) of the *Exclusion List Regulations*, and, pursuant to section 7(1) of the CEAA, the proposal is excluded from environmental assessment.
19. Therefore, the Commission is satisfied that all applicable requirements of the CEAA have been fulfilled.

Conclusion

20. The Commission has considered the information and submissions of GE Canada and CNSC staff as presented in the material available for reference on the record.
21. The Commission is satisfied that the applicant meets the requirements of subsection 24(4) of the *Nuclear Safety and Control Act*. That is, the Commission is of the opinion that GE-Hitachi is qualified to carry on the activity that the new licences will authorize and that it will 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.

⁴ S.C. 1992, c. 37.

22. The Commission therefore revokes Fuel Facility Operating Licences FFOL-3621.0/2010 for General Electric Canada Company Inc.'s facility located in Peterborough, Ontario and FFOL-3622.0/2010 for General Electric Canada Company Inc.'s facility located in Toronto, Ontario, pursuant to section 24 of the NSCA. The licences are revoked as of June 4, 2007.
23. Concurrently, the Commission issues Fuel Facility Operating Licences FFOL-3621.0/2010 for GE-Hitachi Nuclear Energy Canada Inc's facility located in Peterborough, Ontario and FFOL-3622.0/2010 for GE-Hitachi Nuclear Energy Canada Inc's facility located in Toronto, Ontario, pursuant to section 24 of the NSCA. The licences are valid from June 4, 2007 until December 31, 2010, unless suspended, amended, revoked or replaced.
24. The Commission includes in the licence the recommendations made by CNSC staff in CMD 07-H124.

Linda J. Keen,
President
Canadian Nuclear Safety Commission

Date of decision: May 16, 2007

Date of release of Reasons for Decision: June 28, 2007