



Canadian Nuclear  
Safety Commission

Commission canadienne  
de sûreté nucléaire

## Record of Decision

In the Matter of

Applicant GE-Hitachi Nuclear Energy Canada  
Incorporated

Subject Application to Transfer and Amend Licence,  
Request to Accept Financial Guarantee

Date of  
Decision December 9, 2016

## **RECORD OF DECISION**

**Applicant:** GE-Hitachi Nuclear Energy Canada Inc.

**Address/Location:** 1160 Monaghan Road, Peterborough, Ontario, K9J 7B5

**Purpose:** Application to Transfer and Amend Licence, Request to Accept Financial Guarantee

**Application received:** August 24, 2016

**Date of decision:** December 9, 2016

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

**Members present:** M. Binder, Chair

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## 1.0 INTRODUCTION

1. GE-Hitachi Nuclear Energy Canada Inc. (GEH-C) has submitted an application to the Canadian Nuclear Safety Commission<sup>1</sup> (CNSC), under subsection 24(2) of the *Nuclear Safety and Control Act*<sup>2</sup> (NSCA), to transfer its Fuel Facility Operating Licence (FFOL) FFOL-3620.00 /2020 to BWXT Nuclear Energy Canada Inc. (BWXT), an entity to be incorporated if and when GEH-C and another company have amalgamated upon confirmation of the Commission's consideration of the transfer application.
2. Considering that the new corporate entity has yet to be created, the Commission considers GEH-C and the other amalgamating entity to speak on behalf of, and in terms of future planning for, the transferee.
3. Additional requests include:
  - The acceptance of a proposed new financial guarantee of \$52,371,600
  - A licence amendment to change the facility description for the Peterborough facility
4. GEH-C is a Canadian incorporated company that operates two class 1B nuclear facilities in Toronto and Peterborough to manufacture nuclear reactor fuel bundles for use at Ontario Power Generation's (OPG) Pickering and Darlington nuclear power stations.
5. The current licence was granted by the Commission in 2011 for a 10-year term and expires on December 31, 2020.
6. GEH-C submits that there would be no change in the licensee's operational organization, licenced activities, management systems documents or licensing and compliance obligations as a result of this licence transfer.

### Issue

7. In considering the application, the Commission was required to decide:
  - a) what environmental assessment review process to apply in relation to this application;
  - b) if BWXT is qualified to carry on the activity that the transferred licence would authorize; and

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<sup>1</sup> 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.

<sup>2</sup> Statutes of Canada (S.C.) 1997, chapter (c.) 9.

- c) if in carrying on that activity, BWXT 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.

### Hearing

8. 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 submitted for a hearing based on written materials held on December 9, 2016, in Ottawa, Ontario. The Commission considered written submissions from GEH-C (CMD 16 -H113.1) and CNSC staff (CMD 16-H113).

## **2.0 DECISION**

9. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Decision*, the Commission concludes that the corporation that will result from the amalgamation satisfies the conditions of subsection 24(4) of the NSCA. Therefore,

the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, transfers the Fuel Facility Operating Licence FFOL-3620.00 /2020 previously issued to GE-Hitachi Nuclear Energy Canada Inc. for its Toronto Facility, located in Toronto, Ontario, and its Peterborough Facility, located in Peterborough, Ontario, to the entity that, when created, will be known as BWXT Nuclear Energy Canada Inc. The transfer of this licence will take effect upon incorporation resulting from the issuance of a certificate of amalgamation. The Commission also amends the licence to change the description of the Peterborough facility. The amended licence, FFOL-3620.01 /2020, is valid from the BWXT amalgamation date until December 31, 2020. The Commission also accepts the proposed financial guarantee.

10. The Commission includes in the licence the conditions as recommended by CNSC staff in CMD 16-H113.

## **3.0 ISSUES AND COMMISSION FINDINGS**

### **3.1 Licence Transfer Request**

11. The Commission recognizes that there would be no change in the licensee's operational organization, licenced activities, management systems documents or licensing and compliance obligations as a result of this licence transfer as the operations and core management and employee components will be substantially the same.

12. The Commission notes that the proposed licence holder has not yet been organized as a corporate entity, and states that the amalgamation must occur before the licence is transferred from GEH-C to a new entity. The licence transfer will be valid on the date set out on the certificate of amalgamation issued to the new entity.
13. The Commission is satisfied with CNSC staff's assessment of the proposed licence transfer and hereby decides to transfer the licence in accordance with the transfer application.
14. The Commission directs BWXT to provide proof of the issuance of a certificate of amalgamation and its new corporation number to the Commission upon its issuance to effect the licence transfer.

### **3.2 Financial Guarantee**

15. BWXT has proposed to use a Letter of Credit (LOC) for the amount of \$52,371,600 as the preferred instrument to meet the obligations to post a financial guarantee. In 2014, GEH-C has estimated decommissioning costs to be, for the year 2018, \$45,568,100 for their Toronto facility and \$6,803,500 for the Peterborough facility for a total of \$52,371,600, including a 25 % contingency for the cost of all activities.
16. The Commission notes that CNSC staff accepted the revised Preliminary Decommissioning Plan in December 2014, which included the proposed decommissioning costs described above. The Commission also notes that CNSC staff has found the proposed estimation for decommissioning costs for the two facilities to be acceptable.
17. The Commission notes that CNSC staff have reviewed the proposed LOC and that the conditions are similar to the existing LOC except for minor modifications proposed by CNSC staff including the addition of BWXT's corporation number.
18. The Commission recognizes that the use of a LOC for the financial guarantee meets the criteria of Regulatory Guide G-206<sup>3</sup>. The Commission notes that the LOC with suggested minor modifications will be submitted to the CNSC on completion of the acquisition and subsequent amalgamation. The Commission also notes that the existing LOC from GEH-C will continue to be maintained until the new valid LOC is received by the CNSC from the issuer.

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<sup>3</sup>Canadian Nuclear Safety Commission Regulatory Guide G-206 – *Financial Guarantees for the Decommissioning of Licensed Activities*, June, 2000.

19. Upon reviewing the evidence presented by CNSC staff, the Commission finds the amount of the proposed financial guarantee to be satisfactory. The Commission, noting that the new LOC is substantially the same as the existing LOC and, as submitted, will be concluded on behalf of the amalgamated entity, accepts the new financial guarantee as part of the licence transfer. The Commission directs BWXT to submit the new LOC to the CNSC by January 15, 2017.

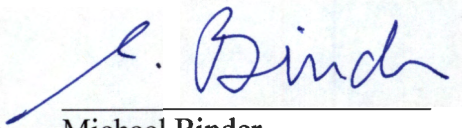
### **3.3 Amendment to the Peterborough Facility Description**

20. GEH-C has requested an amendment to the description of the Peterborough facility. This amendment request would result in the removal of references to Building 16 and Building 24 (south) from the current licence. The buildings were added in the current licence for potential expansion of operations that never materialized.
21. Regarding the request to remove the reference to Building 16 and Building 24 (south) from the licence, the Commission notes the following:
  - A review by CNSC staff of the information related to the prior usage of the buildings show that no licenced activities occurred in those buildings during the current licence period.
  - Radiation survey results showed that no nuclear material was present in those buildings.
  - CNSC staff's review of past compliance verification activities confirmed that these buildings were not used for any licenced activities and no nuclear material had been present in these buildings.
22. The Commission is satisfied by the assessment of Building 16 and Building 24 (south), and accepts CNSC staff's recommendation that these references be removed from the licence.

### **4.0 CONCLUSION**

23. The Commission has considered the information and submissions from GEH-C and CNSC staff and is satisfied that the requested licence transfer and amendment would not adversely impact the safety of the Toronto and Peterborough operations.
24. The Commission is also satisfied that BWXT, as organized as a corporate entity, is qualified to carry out the proposed activities. Therefore, the Commission, pursuant to Section 24 of the NSCA, transfers the FFO to BWXT, to be valid upon incorporation resulting from the issuance of a certificate of amalgamation. In addition, the Commission accepts the new financial guarantee and amends the licence to reflect the change in description of the Peterborough facility. The Commission directs BWXT to submit the new LOC to the CNSC by January 15, 2017.

25. The Commission accepts the conclusion of CNSC staff's environmental assessment under the NSCA that there are no impacts on the environment resulting from the transfer and proposed licence amendment.
26. The Commission directs CNSC staff to verify, within a period of three months after the licence transfer, that this has not resulted in any change in the licensee's operational organization, licenced activities, management systems documents or licensing and compliance obligations and to report to the Commission if there have been any substantial changes.



Michael Binder  
President,  
Canadian Nuclear Safety Commission

DEC 09 2016

Date