

consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the

petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Theodore R. Quay: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission,

Washington, DC 20555, and to Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072-3999, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 31, 1994, as supplemented by letter dated December 28, 1994, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 3rd day of January 1995.

For the Nuclear Regulatory Commission.

**Linh N. Tran,**

*Project Manager, Project Directorate IV-2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.*

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[Docket No. 50-440]

### **The Cleveland Electric Illuminating Co., et al.; Environmental Assessment and Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-58, issued to the Cleveland Electric Illuminating Company, Centenor Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, and Toledo Edison Company (the licensee), for operation of the Perry Nuclear Power Plant, Unit No. 1, located in Lake County, Ohio.

#### **Environmental Assessment**

##### *Identification of the Proposed Action*

The proposed amendment will replace the existing Technical Specifications (TS), in their entirety, with the Improved Technical Specification (ITS). The proposed action is in accordance with the licensee's amendment request dated December 16,

1993, as supplemented November 7, 1994.

#### *The Need for the Proposed Action*

It has been recognized that nuclear safety in all plants would benefit from improvement and standardization of TS. The "NRC Interim Policy Statement on Technical Specification Improvements for Nuclear Power Reactors," (**Federal Register** 52 FR 3788, February 6, 1987) and later the Final Policy Statement, formalized this need. To facilitate the development of individual ITS, each reactor vendor owners' group (OG) and the NRC staff, developed standard Technical Specifications. For General Electric (GE) plants, the standard TS (STS) are NUREG-1433 for BWR/4 reactor facilities and NUREG-1434 for BWR/6 facilities. NUREG-1434 formed the basis of the Perry ITS. The NRC Committee to Review Generic Requirements (CRGR) reviewed the STS and made note of the safety merits of the STS and indicated its support of conversion by operating plants to the STS.

#### *Description of the Proposed Change*

The proposed revision to the TS is based on NUREG-1434, and on guidance provided in the Policy Statement. Its objective is to completely rewrite, reformat, and streamline the existing TS. Emphasis is placed on human factors' principles to improve clarity and understanding. The Bases section has been significantly expanded to clarify, and better explain the purpose and foundation of each specification. In addition to NUREG-1434, portions of the existing TS were also used as the basis for the ITS. Plant-specific issues (unique design features, requirements, and operating practices) were discussed at length with the licensee, and generic matters with the GE and other OGs.

The proposed changes from the existing TS can be grouped into four general categories, as follows:

1. Non-technical (administrative) changes, which were intended to make the ITS easier to use for plant operations personnel. They are purely editorial in nature, or involve the movement or reformat of requirements without affecting technical content. Every section of the Perry TS has undergone these types of changes. In order to ensure consistency, the NRC staff and the licensee have used NUREG-1434 as guidance to reformat and make other administrative changes.

2. Relocation of requirements, which includes items that were in the existing Perry TS, but did not meet the criteria set forth in the Policy Statement for

inclusion in TS. In general, the proposed relocation of items in the Perry TS to the Updated Safety Analysis report (USAR), appropriate plant-specific programs, procedures and ITS Bases, follows the guidance of the BWR/6 STS, NUREG-1434. Once these items have been relocated, by removing them from the TS to other licensee-controlled documents, the licensee may revise them under the provisions of 10 CFR 50.59 or other NRC staff-approved control mechanisms, which provide appropriate procedural means to control changes.

3. More restrictive requirements, which consist of proposed Perry ITS items that are either more conservative than corresponding requirements in the existing Perry TS, or are additional restrictions, which are not in the existing Perry TS, but are contained in NUREG-1434. Examples of more restrictive requirements include: placing a Limiting Conditions for Operation (LCO) on plant equipment, which is not required by the present TS to be operable; more restrictive requirements to restore inoperable equipment; and more restrictive surveillance requirements.

4. Less restrictive requirements, which are relaxations of corresponding requirements in the existing Perry TS, which provided little or no safety benefit, and placed unnecessary burden on the licensee. These relaxations were the result of generic NRC action or other analyses. They have been justified on a case-by-case basis for Perry, as described in the Safety Evaluation to be issued with the license amendment, which will be noticed in the **Federal Register**.

#### *Environmental Impacts of the Proposed Action*

The Commission has completed its evaluation of the proposed revision to the TS. Changes which are administrative in nature have been found to have no effect on technical content of the TS, and are acceptable. The increased clarity and understanding these changes bring to the TS, are expected to improve the operator's control of the plant in normal and accident conditions.

Relocation of requirements to other licensee-controlled documents does not change the requirements themselves. Future changes to these requirements may be made by the licensee, under 10 CFR 50.59, or other NRC-approved control mechanisms, which assures continued maintenance of adequate requirements. All such relocations have been found to be in conformance with the guidelines of NUREG-1434 and the

Policy Statement, and, therefore, to be acceptable.

Changes involving more restrictive requirements have been found to be acceptable.

Changes involving less restrictive requirements have been reviewed individually. When requirements have been shown to provide little or no safety benefit, or to place unnecessary burden on the licensee, their removal from the TS was justified. In most cases, relaxations previously granted to individual plants, on a plant-specific basis, were the result of a generic NRC action, or of agreements reached during discussions with the OG and found to be acceptable for Perry. Generic relaxations contained in NUREG-1434 have also been reviewed by the NRC staff and have been found to be acceptable.

In summary, the proposed revision to the TS has been found to provide control of plant operations, such that reasonable assurance will be provided that the health and safety of the public will be adequately protected. These TS changes will not increase the consequences of accidents, no changes are being made in the types of any effluent that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure.

Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed TS amendment.

With regard to potential non-radiological impacts, the proposed amendment involves features located entirely within the restricted areas as defined in 10 CFR 20. It does not affect non-radiological plant effluents and has no other environmental impact.

Therefore, the Commission concludes that there are no significant non-radiological impacts associated with the proposed amendment.

#### *Alternatives to the Proposed Action*

Since the Commission has concluded there is no measurable environmental impact associated with the proposed amendment, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the amendment would be to deny the amendment request. Such action would not enhance the protection of the environment.

#### *Alternative Use of Resources*

This action does not involve the use of resources not considered previously in the Final Environmental Statement for the Perry Nuclear Power Plant, Unit 1.

### Agencies and Persons Consulted

The NRC staff consulted with the State of Ohio regarding the environmental impact of the proposed action. The State official had no comments.

### Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this proposed action, see the licensee's letters dated December 16, 1993 (PY-CEI/NRR-1732 L), and November 7, 1994 (PY-CEI/NRR-1880 L). These letters are available for public inspection at the Commission's Public Document room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland this 30th day of December 1994.

For the Nuclear Regulatory Commission.

#### Leif J. Norrholm,

Director, Project Directorate III-3, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

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## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-20808; File No. 812-9122]

### The Ohio National Life Insurance Co., et al.

December 29, 1994.

**AGENCY:** Securities and Exchange Commission ("SEC" or the "Commission").

**ACTION:** Notice of Application for an order under the Investment Company Act of 1940 (the "1940 Act").

**APPLICANTS:** The Ohio National Life Insurance Company (the "Company"), Ohio National Variable Account D ("VAD"), and The O.N. Equity Sales Company ("ONESCO"), collectively, the "Applicants."

**RELEVANT 1940 ACT SECTIONS:** Order requested under Section 6(c) of the 1940 Act, granting exemptions from Sections 26(a)(2)(C) and 27(c)(2) thereof.

**SUMMARY OF APPLICATION:** Applicants seek an order to the extent necessary to permit the issuance and sale of certain

group variable annuity contracts offered presently (the "Contracts") or in the future through existing and future subaccounts of VAD, from which a mortality and expense risk charge and/or a distribution charge may be deducted.

**FILING DATE:** The application was filed initially on July 20, 1994. An amended and restated application was filed on December 20, 1994.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on the application by writing to the Secretary of the Commission and serving the Applicants with a copy of the request, either personally, or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on January 23, 1995, and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, by certificate. Hearing requests should state the nature of the interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the Commission.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 237 William Howard Taft Road, Cincinnati, OH 45219.

**FOR FURTHER INFORMATION CONTACT:** Patrice M. Pitts, Attorney, at (202) 942-0670, Office of Insurance Products, Division of Investment Management.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

### Applicants' Representations

1. The Company was organized under the laws of Ohio in 1909 as a stock life insurance company, and became a mutual life insurance company in 1959. The Company writes life, accident and health insurance, and annuities in 45 states and the District of Columbia.

2. Established by the Company in 1969 as a separate account under Ohio law, VAD funds group variable annuity contracts (including the Contracts). Income, gains and losses, whether or not realized, from assets allocated to VAD are credited to or charged against VAD without regard to other income, gains or losses of the Company. The assets maintained in VAD will not be charged with any liabilities arising out of any other business conducted by the Company. Nevertheless, all obligations arising under the variable annuity contracts funded by VAD, including the

commitment to make annuity payments, are general corporate obligations of the Company. Accordingly, all of the Company's assets are available to meet its obligations under those variable annuity contracts. VAD is registered as a unit investment trust under the 1940 Act.

3. ONESCO, a wholly-owned subsidiary of the Company, is a registered broker-dealer and a member of the National Association of Securities Dealers, Inc. ONESCO is the principal underwriter of the Contracts.

4. The Contracts are group variable annuity contracts that provide for the accumulation of values and the payment of annuity benefits on a variable and/or fixed basis. The Contracts are designed for the following types of tax-qualified retirement plans ("Plans"): (a) annuity purchase plans adopted by public school systems or by certain tax-exempt organizations which qualify for tax-deferred treatment pursuant to Section 403(b) of the Internal Revenue Code (the "Code"); (b) other employee pension or profit-sharing trusts or plans which qualify for tax-deferred treatment under Section 401(a), 401(k) or 403(a) of the Code; and (c) state and municipal deferred compensation plans.

5. The minimum contribution amount under each Contract is \$25 per Plan participant. Additional contributions may be made at any time, but not more often than biweekly. Generally, maximum contributions under the Contracts equal the maximum amounts permitted under the respective Plan.

6. Net purchase payments under the Contracts (after deduction of any applicable state premium tax) are allocated to one or more subaccounts of VAD and/or to the Company's general account. Assets of the subaccounts of VAD are invested in shares of a corresponding portfolio of Ohio National Fund, Inc., a mutual fund having seven diversified investment portfolios. Additional subaccounts may be created by VAD in the future to invest in new investment portfolios of Ohio National Fund, Inc., or in investment portfolios of other investment companies. In the future, VAD also may offer additional variable annuity contracts (the "future contracts") which are materially similar to the Contracts.

7. The Company will assess an administration expense charge, on an annual basis, to 0.35 percent of Contract value. The expenses reimbursed by the administration charge include, but are not limited to, those for: accounting, auditing, legal, and Contract owner services; reports to regulatory authorities and Contract owners; and