

**NUCLEAR REGULATORY COMMISSION**

[Docket No. 50-440]

**In the Matter of the Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, OES Nuclear, Inc., Pennsylvania Power Company, Toledo Edison Company (Perry Nuclear Power Plant, Unit 1); Order Approving Application Regarding Merger Agreement Between DQE, Inc., and Allegheny Power System, Inc.****I**

The Cleveland Electric Illuminating Company (CEI), Centerior Service Company (CSC), Duquesne Light Company (DLC), Ohio Edison Company, OES Nuclear, Inc., Pennsylvania Power Company, and Toledo Edison Company are the licensees of Perry Nuclear Power Plant, Unit 1 (PNPP). CEI and CSC act as agents for the other licensees and have exclusive responsibility for and control over the physical construction, operation, and maintenance of PNPP as reflected in Facility Operating License No. NPF-58. The Nuclear Regulatory Commission (NRC) issued License No. NPF-58 on March 18, 1986, pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR Part 50). The facility is located on the shores of Lake Erie in Lake County, Ohio, approximately 35 miles northeast of Cleveland, Ohio.

**II**

Under cover of a letter dated August 1, 1997, DLC submitted an application for consent under 10 CFR 50.80 regarding a proposed merger of DQE, Inc. (the parent holding company of DLC), and Allegheny Power System, Inc. which would result in DQE, Inc. becoming a wholly owned subsidiary of Allegheny Power System, Inc. Allegheny Power System, Inc. would change its name to Allegheny Energy, Inc. (Allegheny Energy). CEI, CSC, Ohio Edison Company, OES Nuclear, Inc., Pennsylvania Power Company, and Toledo Edison Company are not involved in the merger. Supplemental information was submitted by letter dated October 30, 1997.

Under the proposed merger, DLC will become an indirect subsidiary of Allegheny Energy by reason of DQE, Inc. becoming a subsidiary of Allegheny Energy. DLC and the other current licensees will continue to hold the license, and no direct transfer of the license will result from the merger. On October 21, 1997, a Notice of

Consideration of Approval of Application Regarding Proposed Corporate Restructuring was published in the **Federal Register** (62 FR 54655). An Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on October 21, 1997 (62 FR 54657).

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted in the application and letters of August 1, 1997, and October 30, 1997, the NRC staff has determined that the proposed merger will not affect the qualifications of DLC as holder of Facility Operating License No. NPF-58, and that the transfer of control of the license, to the extent effected by the proposed merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a safety evaluation dated March 11, 1998.

**III**

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended; 42 USC §§ 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the Commission approves the application regarding the merger agreement between DQE, Inc. and Allegheny Power System, Inc. subject to the following:

(1) DLC shall provide the Director of the Office of Nuclear Reactor Regulation with a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from DLC to its first-or second-tier parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent of DLC's consolidated net utility plant, as recorded on DLC's books of account; and (2) should the merger not be completed by December 31, 1998, this Order shall become null and void, unless upon application and for good cause shown, this date is extended.

This Order is effective upon issuance.

**IV**

By April 17, 1998, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how such person's interest is adversely affected by this Order and

shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an order designating the time and place of such hearing.

The issue to be considered at any such hearing shall be whether this Order should be sustained.

Any request for a hearing must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Copies should also be sent to the Office of the General Counsel and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to John O'Neill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

For further details with respect to this action, see DLC's application dated August 1, 1997, and supplemental letter dated October 30, 1997, and the safety evaluation dated March 11, 1998, 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 Perry Public Library, 3753 Main Street, Perry, OH.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 11th day of March 1998.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

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**NUCLEAR REGULATORY COMMISSION**

[Docket Nos. 50-275 and 50-323]

**In the Matter of Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2); Exemption****I**

Pacific Gas and Electric Company, et al. (the licensee) is the holder of Facility Operating License Nos. DPR-80 and DPR-82, which authorize operation of the Diablo Canyon Nuclear Power Plant (DCNPP), Unit Nos. 1 and 2. The licenses provide, among other things, that the licensee is subject to all rules,