

**NUCLEAR REGULATORY COMMISSION**

[Docket No. 50-346]

**Toledo Edison Company; Centerior Service Company; and the Cleveland Electric Illuminating Company (Davis-Besse Nuclear Power Station, Unit No. 1); Order Approving Application Regarding the Transfer of Operating Authority****I**

Toledo Edison Company and The Cleveland Electric Illuminating Company are the owners of the Davis-Besse Nuclear Power Station, Unit No. 1, located in Ottawa County, Ohio. The owners, together with Centerior Service Company, are the licensees that hold Facility Operating License No. NPF-3 issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR Part 50) on April 22, 1977. Under this license, Centerior Service Company and Toledo Edison Company act as agents for The Cleveland Electric Illuminating Company, and have exclusive responsibility for and control over the physical construction, operation, and maintenance of Davis-Besse.

**II**

By application dated June 29, 1998, as supplemented by submittals dated July 14, October 26, and November 30, 1998, the licensees requested approval of the transfer of operating authority under the license to a new company, FirstEnergy Nuclear Operating Company (FENOC), and issuance of a conforming amendment. The licensees proposed to transfer operating authority under the license to FENOC to allow it to use and operate Davis-Besse and to possess and use related licensed nuclear materials in accordance with the same conditions and authorizations in the current operating license. The licensees have also requested the issuance of a license amendment reflecting the transfer of operating authority. FENOC, a wholly-owned subsidiary of FirstEnergy Corporation, the parent of the owners, would become the licensed operator for Davis-Besse and would have exclusive control over the operation and maintenance of the facility. The present plant organization, the oversight organizations, and the engineering and support organizations would be transferred essentially intact from the operating licensees to FENOC. The technical qualifications of the FENOC organization, therefore, would be at least equivalent to those of the existing

organization responsible for operating the plant. Centerior Service Company would be removed from the license.

Under the proposed arrangement, ownership of Davis-Besse would remain unchanged, with each owner retaining its current ownership interest. FENOC would not own any portion of Davis-Besse. Likewise, the owners' entitlement to capacity and energy from Davis-Besse would not be affected by the proposed transfer of operating responsibility for Davis-Besse to FENOC. The owners would continue to provide all funds for operation, maintenance, and decommissioning of Davis-Besse by FENOC. The owners' responsibility would include providing funding for any emergency situations that might arise at Davis-Besse.

The licensees requested the Commission's approval of the transfer of operating authority to FENOC and issuance of a conforming license amendment pursuant to 10 CFR 50.80 and 50.90. Notice of this application for approval and an opportunity for a hearing was published in the **Federal Register** on August 4, 1998 (63 FR 41602), and an Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on September 8, 1998 (63 FR 47531).

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information contained in the submittals of June 29, July 14, October 26, and November 30, 1998, and other information before the Commission, the NRC staff has determined that FENOC is qualified to hold the license to the extent and for the purposes described above, and that the transfer of the license as described above is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. These findings are supported by a Safety Evaluation dated December 1, 1998.

**III**

Accordingly, pursuant to Sections 105, 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC §§ 2135, 2201(b), 2201(i), and 2234, and 10 CFR 50.80, *It is hereby ordered* that the Commission consents to the transfer of the license as described herein to FENOC, subject to the following conditions:

(1) FENOC shall not market or broker power or energy from the Davis-Besse Nuclear Power Station, Unit No. 1. The

owners are responsible and accountable for the actions of FENOC to the extent that said actions affect the marketing or brokering of power or energy from the Davis-Besse Nuclear Power Station, Unit No. 1, and, in any way, contravene the antitrust license conditions contained in the license.

(2) Should the formation of FENOC and transfer of operating authority not be completed by December 31, 1999, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

This Order is effective upon issuance.

Action on the proposed conforming license amendment will be taken upon implementation of the transfer approved by this Order.

For further details with respect to this Order, see the licensees' application dated June 29, 1998, as supplemented by submittals dated July 14, October 26, and November 30, 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 University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Dated at Rockville, Maryland, this 1st day of December 1998.

For the Nuclear Regulatory Commission.

**Roy P. Zimmerman,**

*Acting Director, Office of Nuclear Reactor Regulation.*

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**NUCLEAR REGULATORY COMMISSION**

[Docket 70-7002]

**Notice of Amendment to Certificate of Compliance GDP-1 for The U.S. Enrichment Corporation Portsmouth Gaseous Diffusion Plant, Piketon, Ohio**

The Director, Office of Nuclear Material Safety and Safeguards, has made a determination that the following amendment request is not significant in accordance with 10 CFR 76.45. In making that determination, the staff concluded that: (1) there is no change in the types or significant increase in the amounts of any effluents that may be released offsite; (2) there is no significant increase in individual or cumulative occupational radiation exposure; (3) there is no significant construction impact; (4) there is no significant increase in the potential for,