For the Nuclear Regulatory Commission.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412]

Duquesne Light Co., Firstenergy Nuclear Operating Co., Pennsylvania Power Co., (Beaver Valley Power Station, Units 1 and 2), Order Approving Transfer of Licenses and Conforming Amendments

I

The Duquesne Light Company (DLC), Ohio Edison Company, and Pennsylvania Power Company (Penn Power) are the licensees of the Beaver Valley Power Station, Unit 1 (BVPS–1). DLC, Ohio Edison Company, The Cleveland Electric Illuminating Company (CEI), and Toledo Edison Company are the licensees of the Beaver Valley Power Station, Unit 2 (BVPS–2). DLC acts as agent for the licensees and has exclusive responsibility for, and control over, the physical construction, operation, and maintenance of BVPS–1 and BVPS–2 as reflected in Operating Licenses Nos. DPR–66 and NPF–73. With the exception of DLC, Penn Power and each of the remaining licensees are wholly owned subsidiaries of FirstEnergy Corporation (FE). The U.S. Nuclear Regulatory Commission (NRC) issued Operating License No. DPR–66 on July 2, 1976, and Operating License No. NPF–73 on August 14, 1987, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). The facility is located in Beaver County, Pennsylvania.

II

Under cover of a letter dated May 5, 1999, DLC and FirstEnergy Nuclear Operating Company (FENOC), acting for itself and on behalf of Penn Power, jointly submitted an application requesting license transfer approvals with respect to Operating Licenses DPR–66 and NPF–73 in connection with the proposed transfer of DLC's 47.5-percent ownership interest in BVPS–1 and DLC's 13.74-percent ownership interest in BVPS–2 to Penn Power; approval of the transfer of DLC's operating authority under licenses to FENOC; and approval of conforming amendments to reflect the transfers. Supplemental information was provided by DLC under cover of letters dated June 22 and July 30, 1999 (collectively with the application of May 5, 1999, referred to hereinafter as the ''application'').

No physical changes will be made to BVPS–1 or BVPS–2 as a result of the proposed transfers, and there will be no significant change in the operations of BVPS–1 or BVPS–2, according to the application. FENOC would become the agent for the joint owners of the facility and would have exclusive responsibility for the management, operation, maintenance, and eventual decommissioning of BVPS–1 and BVPS–2. The conforming amendments would remove DLC from the facility operating licenses, reflect Penn Power as a co-owner of BVPS–2, and indicate that FENOC is the authorized operator of BVPS–1 and BVPS–2.

Approval of the proposed license transfers and conforming license amendments was requested pursuant to 10 CFR 50.80 and 50.90. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on June 14, 1999 (64 FR 31880). Before such notice was published, the Commission received a Petition to Intervene dated June 3, 1999, from Local 29, International Brotherhood of Electrical Workers (Local 29). DLC and FE each filed an answer to the petition on June 16, 1999. Local 29 filed its reply to the DLC and FE answers on June 23, 1999, requesting that the Commission deny the DLC and FE answers and grant Local 29's Petition to Intervene as of right. The Commission issued a Memorandum and Order [1] on July 23, 1999, denying Local 29's Petition to Intervene and referred Local 29's comments to the NRC staff for consideration during review of the license transfer application. Subsequently, on September 15, 1999, Local 29 filed a Petition to Waive Time Limits in 10 CFR 2.1305 and Supplemental Comments. FE filed an answer to this second petition on September 21, 1999, and DLC filed an answer on September 23, 1999. The Commission issued a Memorandum and Order [2] on September 24, 1999, which granted Local 29 a waiver of the 10 CFR 2.1305 time limits for filing comments and referred Local 29's comments to the NRC staff for consideration during review of the license transfer application. Local 29's comments are addressed in the staff's safety evaluation dated September 30, 1999.

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 application and other information before the Commission, the NRC staff has determined that Penn Power and FENOC are qualified to hold the licenses as proposed in the application, and that the transfer of the licenses, to the extent proposed in the application, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations, and all applicable requirements have been satisfied. The foregoing findings are supported by a safety evaluation dated September 30, 1999.

III

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended; 42 U.S.C. §§ 2201(b), 2201(i), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the license transfers referenced above are approved, subject to the following conditions:

(1) All decommissioning funding arrangements pertaining to the transfer of DLC's ownership interests to Penn Power, as set forth in the application and the safety evaluation supporting this Order, shall be implemented and fulfilled.

(2) Penn Power and FENOC shall, prior to completion of the subject transfers, provide the Director, Office of Nuclear Reactor Regulation, satisfactory documentary

[1] Duquesne Light Company, et al. (Beaver Valley Power Station, Units 1 and 2), CLI–99–23, 59 NRC ___ slip. op. (July 23, 1999).

[2] Duquesne Light Company, et al. (Beaver Valley Power Station, Units 1 and 2), CLI–99–25, 59 NRC ___ slip. op. (September 24, 1999).

evidence that Penn Power and FENOC have obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(3) After the receipt of all required regulatory approvals of the transfer of DLC's interest in BVPS–1 and BVPS–2 to Penn Power, and operating authority to FENOC, FENOC shall inform the Director, Office of Nuclear Reactor Regulation, in writing, of such receipt within five business days, and of the date of the closing of the transfer no later than seven business days prior to the date of closing. Should the transfer not be completed by September 30, 2000, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

It is further ordered that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in the attachment to this Order, to conform the licenses to reflect the subject license transfers are approved. Such amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated May 5, 1999, as supplemented June 22, and July 30, 1999, and the safety evaluation dated September 30, 1999, 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 B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Dated at Rockville, Maryland, this 30th day of September 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

I

Entergy Operations, Inc. (Arkansas Nuclear One, Unit 2); Exemption

[Docket No. 50–368]

Entergy Operations, Inc. (the licensee), is the holder of Facility Operating License No. NPF–6, which authorizes operation of Arkansas Nuclear One, Unit 2. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility is one of two pressurized-water reactors at the licensee's site located in Pope County, Arkansas.

II

In its letter dated October 8, 1997, as supplemented by letter dated February 25, 1999, the licensee requested an exemption from the Commission's regulations. Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix R, Section III.G.2, is designed to ensure that adequate fire protection features are provided for redundant cables or equipment located in the same fire area outside of primary containment such that at least one of the redundant trains of safe shutdown equipment will remain available during and after any postulated fire in the plant to achieve and maintain safe shutdown conditions. Section III.G.2.c requires the following means of assurance:

> Enclosure of cable and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour fire rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area[.]

The licensee has requested an exemption from the requirements of 10 CFR Part 50, Appendix R, Section III.G.2.c, for cables and equipment located below the 354-foot elevation of the ANO–2 intake structure. The licensee is requesting an exemption from the specific requirement to provide fire detectors and an automatic fire suppression system to protect redundant trains of safe shutdown equipment that are located in the same fire zone. The licensee has demonstrated that one redundant train of cable and equipment, required to achieve and maintain safe shutdown conditions, is protected with a fire barrier having an equivalent 1-hour fire rating.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 (1) when the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *''

The underlying purpose of 10 CFR Part 50, Appendix R, Section III.G.2, is to provide reasonable assurance that at least one of the redundant trains of safe shutdown equipment will remain available during and after any postulated fire in the plant to achieve and maintain safe shutdown conditions.

The ANO–2 intake structure is about 32 feet by 26 feet on three levels. There are no rated fire barriers between the three levels. Below the 354-foot elevation there are three intake bays, which contain service water (SW) piping and conduits. The bays are approximately 7 feet by 32 feet and are separated from one another by 2-foot thick, non-rated concrete walls. The bays are separated from the ground level by an 18-inch thick, non-rated concrete slab on metal decking. The floor of the bays is typically covered with water 16 feet deep. The ceiling height is approximately 14 feet above the normal pool level. Of the three bays, only the ''A'' SW intake bay contains redundant cables. The licensee stated that the total in-situ combustible loading is 3,469,060 BTUs, which is equivalent to a fire severity to a standard fire duration of less than 4 minutes. Each bay is administratively controlled as a ''confined space,'' thus limiting access by personnel during routine operations and precluding the accumulation of combustibles. In addition, the licensee's administrative procedures limit the transient combustibles to 5 pounds unless personnel are continuously present in the area. In such cases, the personnel could be either the craft personnel responsible for using the combustible materials or a continuous fire watch. Water to the bay is normally provided through a sluice gate for the bays where the circulating pumps take suction.

SW is required to be available to supply cooling water for various safe shutdown components including the diesel generators and the shutdown cooling heat exchangers. Additionally, SW can be aligned to the emergency feedwater system in the event that the desired condensate source is depleted. The time critical function is to supply cooling for the diesel generators. The licensee stated that, on the basis of its calculations, the diesel generators (and therefore the SW system components) are not required to be operated during the first 30 minutes of a postulated fire event. The licensee allows the operators to manually align the SW system because the diesel generators are not required during the first 30 minutes of a fire event and sufficient time is available to complete the alignment.