

Dated: August 2, 2002.

**Mamie Bittner,**

*Director of Public and Legislative Affairs.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-247-OLA and ASLBP No. 02-789-01-OLA]

### Atomic Safety and Licensing Board; In the Matter of Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Operations, Inc., (Indian Point Nuclear Generating Unit No. 2); Public Notice of Prehearing Conference

August 2, 2002.

Before Administrative Judges: Michael C. Farrar, Chairman, Dr. Richard F. Cole, Dr. Charles N. Kelber.

The Atomic Safety and Licensing Board presiding over this license amendment proceeding hereby gives public notice that on Tuesday, August 27, 2002, it will hold a prehearing conference at the Hilton Rye Town, 699 Westchester Avenue, Rye Brook, New York. The conference will convene at 9:00 A.M. and conclude by 1:00 P.M. (no lunch break will be taken). The purpose of this prehearing conference is to hear arguments on (1) the standing of petitioner Riverkeeper, Inc. to intervene in the proceeding; (2) the admissibility of Riverkeeper's petition under regulatory standards governing late-filed intervention requests; and (3) the admissibility of any proposed contention(s) which Riverkeeper may file. This notice sets forth the background developments that led to the conference and covers matters related to public attendance and document availability.

#### A. Background

The issues before the Board in this license amendment proceeding relate to the admissibility of a late-filed intervention petition. The petition submitted by Riverkeeper challenges the pending application of Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Operations, Inc. (Entergy), the new operators of Indian Point Nuclear Generation Unit No. 2, for a license change that would, in effect, give the operators a one-time five-year extension of the period within which to conduct the "containment integrated leak rate" test that is otherwise required every ten years.

After conducting a review of the application, the NRC Staff issued a **Federal Register** notice (66 FR 44,161, 44,165 (August 22, 2001)) seeking

public comment on its proposal to make a "no significant hazards" determination as to the amendment request. The notice also provided the opportunity for anyone opposed to the amendment "whose interest may be affected" thereby to file within 30 days (by September 21, 2001) a petition to intervene in the proceeding and to request a hearing.

On March 18, 2002, nearly six months after the deadline for intervening, Riverkeeper filed a "Section 2.714 Petition for Leave to Intervene and Request for a Hearing." Riverkeeper justified its late filing, and its concomitant request for a hearing on the proposed license amendment, by pointing to the then-recent disclosure in the press of the discovery of rusted areas in the reactor containment building. The three participants in this proceeding—the petitioner Riverkeeper, the licensee Entergy, and the NRC Staff—have each filed several pleadings since that time, and are expected to be filing additional pleadings before the conference.

#### B. Public Attendance at Prehearing Conference

Members of the public are welcome to attend the conference, but are advised that this adjudicatory proceeding is open for observation only. In other words, oral presentations at the conference will be limited to the three organizations listed above, which have undertaken the task of full participation in the proceeding.

In accordance with the policies that govern NRC adjudicatory proceedings, members of the public who do attend will be subject to security screening, which may involve the use of metal detectors and the inspection of briefcases and handbags. Signs, banners, posters, and the like are not allowed because they are disruptive to the active participants in the proceeding and to other members of the audience.

#### C. Availability of Documents

Documents relating to the Entergy Indian Point Nuclear Generating Unit No. 2 license amendment application and the Riverkeeper petition for intervention at issue in this pretrial conference are now on file at the Commission's Public Document Room, 11545 Rockville Pike, Rockville, Maryland, 20850, and may also be obtained through ADAMS, the electronic Agencywide Documents Access and Management System, accessible through the NRC Web site, using the link <http://www.nrc.gov/reading-rm/adams.html>. Follow the instructions on the Web site to download and install the appropriate ADAMS software onto your computer.

After the installation is complete, read the available online instructions on how to search for documents on ADAMS. Documents are commonly accessed by using docket numbers. All publicly available documents relating to the Indian Point proceeding can be accessed by entering 05000247 in the docket field line in the "ADAMS Find" menu.

Dated at Rockville, Maryland, on August 2, 2002.

For the Atomic Safety and Licensing Board.

**Michael C. Farrar,**

*Chairman, Administrative Judge.*

[FR Doc. 02-20083 Filed 8-7-02; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-315 and 50-316]

### In the Matter of Indiana Michigan Power Company, (Donald C. Cook Nuclear Plant, Units 1 and 2); Order Approving Application Regarding Proposed Corporate Restructuring

#### I

Indiana Michigan Power Company (I&M or the licensee) owns 100 percent of the Donald C. Cook Nuclear Plant (D.C. Cook), Units 1 and 2, located in Berrien County, Michigan. I&M exclusively operates the facility.

I&M is a wholly owned, direct subsidiary of American Electric Power Corporation (AEP). I&M is the sole holder of Facility Operating Licenses Nos. DPR-58 for D.C. Cook Unit 1, and DPR-71 for D.C. Cook Unit 2, issued by the U.S. Nuclear Regulatory Commission (NRC or the Commission) pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR Part 50) on October 25, 1974, and December 23, 1977, respectively.

#### II

Pursuant to section 184 of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.80, I&M filed an application dated March 28, 2002, requesting the Commission's consent to the indirect transfer of the D.C. Cook Units 1 and 2 licenses. The indirect transfer would occur as a result of a proposed corporate restructuring, under which an affiliate company, Central and South West Corporation (CSW), would become the direct parent company of I&M. I&M and CSW are currently wholly owned, direct subsidiaries of AEP. AEP is a registered holding company under the Public Utility Holding Company Act of 1935, as amended. Upon the completion of the

restructuring, CSW will remain a wholly owned, direct subsidiary of AEP, while I&M will be a wholly owned, direct subsidiary of CSW. Thus, I&M will become an indirect subsidiary of AEP.

No physical changes to the D.C. Cook facility or operational changes are proposed in the application. I&M, which is authorized under the licenses to operate and maintain the facility, will continue to do so following the restructuring. No direct transfer of the licenses will result from the planned restructuring. Notice of this request for approval was published in the **Federal Register** on May 8, 2002 (67 FR 30980). No hearing requests or written comments were received.

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 other information before the Commission, the NRC staff has determined that the proposed restructuring of I&M's parent organization described above will not affect the qualifications of I&M as the holder of the D.C. Cook Units 1 and 2 licenses, and that the indirect transfer of the licenses, to the extent effected by the restructuring, is otherwise consistent with applicable provisions of laws, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a safety evaluation dated August 2, 2002.

### III

Accordingly, pursuant to sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(j), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the indirect license transfers referenced above is approved, subject to the following conditions:

(1) Following the completion of the subject indirect license transfers, I&M shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from I&M to its parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of I&M's consolidated net utility plant, as recorded on its book of account.

(2) Should the corporate restructuring described above not be completed by July 31, 2003, this Order shall become null and void, provided, however, upon

application and for good cause shown, such date may be extended.

This Order is effective upon issuance.

### IV

For further details with respect to this Order, see the application dated March 28, 2002, and the safety evaluation dated August 2, 2002, which are available for inspection at the Commission's Public Document Room, U.S. Nuclear Regulatory Commission, One White Flint North, Room O-1 F21, 11555 Rockville Pike, Rockville, MD 20852-2738, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.NRC.gov>).

Dated at Rockville, Maryland, this 2nd day of August, 2002.

For the Nuclear Regulatory Commission.

**John A. Zwolinski,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-315 AND 50-316]

### Indiana Michigan Power Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-58 and DPR-74 issued to Indiana Michigan Power Company (the licensee) for operation of the Donald C. Cook Nuclear Power Plant, Units 1 and 2, located in Berrien County, Michigan.

The proposed amendments would amend Operating Licenses Nos. DPR-58 and DPR-74 to add a license condition allowing a one-time 140-hour allowed outage time for the essential service water (ESW) system, to allow ESW pump replacement during plant operation.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under

the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

*Response:* No.

#### Probability of Occurrence of an Accident Previously Evaluated

The ESW system provides cooling water to safety-related components. This is a support function, and malfunctions of the ESW system are not initiators of accidents that have been previously analyzed. The one-time extension of the allowed outage time for an ESW pump does not introduce any failure mechanisms that would initiate a previously analyzed accident.

#### Consequences of an Accident Previously Evaluated

The ESW pump provides cooling water to safety-related components, a support function. There are two ESW pumps per unit, and only one ESW pump per unit is required to meet the accident analysis. During the ESW pump replacement, the redundant ESW pump will be available to provide cooling water to the safety-related components. Thus, there is no increase in the consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The ESW system provides cooling water to safety-related components, a support function. The one-time extension of the allowed outage time facilitates the installation of an ESW pump, and of itself does not introduce any mechanisms that would initiate an accident not previously analyzed.

3. Does the proposed change involve a significant reduction in a margin of safety?

*Response:* No.

The one-time allowed outage time extension does not alter the function of the ESW pump, nor does it change the mode of plant operation. Only one ESW pump per unit is required to mitigate the consequences of an accident. The redundant ESW pump will be operable during the time that the ESW pump is being replaced. A risk assessment has been performed for an allowed outage time of 140 hours. The results of that evaluation demonstrate that the [incremental core damage probability] ICDP