

Surveillance (and Adoption of a Technical Specification Bases Control Program) * Using CLIIP. Licensees Remain Responsible for Ensuring That Their Actual Application Fulfills Their Administrative Requirements as Well as Nuclear Regulatory Commission Regulations.

U.S. Nuclear Regulatory Commission,
Document Control Desk,
Washington, DC 20555.

Subject: Plant Name

Docket No. 50—Application for Technical Specification Change To Add LCO 3.0.8 on the Inoperability of Snubbers (and Adoption of a Technical Specifications Bases Control Program) * Using the Consolidated Line Item Improvement Process

Gentleman:

In accordance with the provisions of 10 CFR 50.90 [LICENSEE] is submitting a request for an amendment to the technical specifications (TS) for [PLANT NAME, UNIT NOS.].

The proposed amendment would modify TS requirements for inoperable snubbers by adding LCO 3.0.8, (and, in conjunction with the proposed change, TS requirements for a Bases control program consistent with TS Bases Control Program described in Section 5.5 of the applicable vendor's Standard Technical Specifications).

Attachment 1 provides a description of the proposed change, the requested confirmation of applicability, and plant-specific verifications. Attachment 2 provides the existing TS pages marked up to show the proposed change. Attachment 3 provides revised (clean) TS pages. Attachment 4 provides a summary of the regulatory commitments made in this submittal. (IF APPLICABLE: Attachment 5 provides the existing TS Bases pages marked up to show the proposed change (for information only).)

[LICENSEE] requests approval of the proposed License Amendment by [DATE], with the amendment being implemented [BY DATE OR WITHIN X DAYS].

In accordance with 10 CFR 50.91, a copy of this application, with attachments, is being provided to the designated [STATE] Official.

I declare under penalty of perjury under the laws of the United States of America that I am authorized by [LICENSEE] to make this request and that the foregoing is true and correct. (Note that request may be notarized in lieu of using this oath or affirmation statement).

If you should have any questions regarding this submittal, please contact [NAME, TELEPHONE NUMBER]

Sincerely,
[Name, Title]

Attachments:

1. Description and Assessment
2. Proposed Technical Specification Changes
3. Revised Technical Specification Pages
4. Regulatory Commitments
5. Proposed Technical Specification Bases Changes

* If not already in the facility Technical Specifications.

cc: NRC Project Manager
NRC Regional Office
NRC Resident Inspector
State Contact

Attachment 1—Description and Assessment

1.0 Description

The proposed amendment would modify technical specifications (TS) requirements for inoperable snubbers by adding LCO 3.0.8.²

The changes are consistent with Nuclear Regulatory Commission (NRC) approved Industry/Technical Specification Task Force (TSTF) STS change TSTF-372 Revision 4. The availability of this TS improvement was published in the **Federal Register** on [DATE] as part of the consolidated line item improvement process (CLIIP).

2.0 Assessment

2.1 Applicability of Published Safety Evaluation

[LICENSEE] has reviewed the safety evaluation dated [DATE] as part of the CLIIP. This review included a review of the NRC staff's evaluation, as well as the supporting information provided to support TSTF-372. [LICENSEE] has concluded that the justifications presented in the TSTF proposal and the safety evaluation prepared by the NRC staff are applicable to [PLANT, UNIT NOS.] and justify this amendment for the incorporation of the changes to the [PLANT] TS.

2.2 Optional Changes and Variations

[LICENSEE] is not proposing any variations or deviations from the TS changes described in the TSTF-372 Revision 4 or the NRC staff's model safety evaluation dated [DATE].

3.0 Regulatory Analysis

3.1 No Significant Hazards Consideration Determination

[LICENSEE] has reviewed the proposed no significant hazards consideration determination (NSHCD) published in the **Federal Register** as part of the CLIIP. [LICENSEE] has concluded that the proposed NSHCD presented in the **Federal Register** notice is applicable to [PLANT] and is hereby incorporated by reference to satisfy the requirements of 10 CFR 50.91(a).

3.2 Verification and Commitments

As discussed in the notice of availability published in the **Federal Register** on [DATE] for this TS improvement, plant-specific verifications were performed as follows:

The licensee has established TS Bases for LCO 3.0.8 which provide guidance and details on how to implement the new requirements. LCO 3.0.8 requires that risk be managed and assessed. The Bases also state that while the Industry and NRC guidance on implementation of 10 CFR 50.65(a)(4), the Maintenance Rule, does not address seismic risk, LCO 3.0.8 should be considered with

² [In conjunction with the proposed change, technical specifications (TS) requirements for a Bases Control Program, consistent with the TS Bases Control Program described in Section 5.5 of the applicable vendor's standard TS (STS), shall be incorporated into the licensee's TS, if not already in the TS.]

respect to other plant maintenance activities, and integrated into the existing Maintenance Rule process to the extent possible so that maintenance on any unaffected train or subsystem is properly controlled, and emergent issues are properly addressed. The risk assessment need not be quantified, but may be a qualitative assessment of the vulnerability of systems and components when one or more snubbers are not able to perform their associated support function. Finally, the licensee is expected to have a Bases Control Program consistent with Section 5.5 of the STS.

4.0 Environmental Evaluation

[LICENSEE] has reviewed the environmental evaluation included in the model safety evaluation dated [DATE] as part of the CLIIP. [LICENSEE] has concluded that the staff's findings presented in that evaluation are applicable to [PLANT] and the evaluation is hereby incorporated by reference for this application.

Attachment 2—Proposed Technical Specification Changes (Mark-Up)

Attachment 3—Proposed Technical Specification Pages

Attachment 4—List of Regulatory Commitments

The following table identifies those actions committed to by [LICENSEE] in this document. Any other statements in this submittal are provided for information purposes and are not considered to be regulatory commitments. Please direct questions regarding these commitments to [CONTACT NAME].

Regulatory commitments—[LICENSEE] will establish the Technical Specification Bases for LCO 3.0.8 as adopted with the applicable license amendment.

Due date/event—[Complete, implemented with amendment OR within X days of implementation of amendment]

Attachment 5—Proposed Changes to Technical Specification Bases Pages

[FR Doc. E5-2171 Filed 5-3-05; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26861; 812-13163]

Edward D. Jones & Co., L.P.; Notice of Application

April 28, 2005.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 22(d) of the Act, as well as certain disclosure requirements.

SUMMARY OF APPLICATION: Edward D. Jones & Co., L.P. ("Edward Jones")

requests an order that would permit the sale of shares of certain registered open-end investment companies ("mutual funds") at a price that reflects the elimination of the front-end sales load, in connection with a Deferred Consideration Agreement entered into by Edward Jones with the United States Attorney's Office for the Eastern District of Missouri. Edward Jones also requests that the relief extend to such mutual funds and their principal underwriters.

DATES: The application was filed on February 4, 2005, and amended on April 5, 2005.

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 by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 24, 2005, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicant, 12555 Manchester Road, St. Louis, MO 63131-3729.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551-6817, or Todd F. Kuehl, Branch Chief, at (202) 551-6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102 (telephone (202) 942-8090).

Applicant's Representations

1. Edward Jones, a Missouri limited partnership, is registered as a broker-dealer under the Securities Exchange Act of 1934. Edward Jones is one of the largest sellers of brokerage-sold mutual funds in the United States and has selling agreements with approximately 240 mutual fund families.

2. On December 20, 2004, Edward Jones entered into a Deferred Consideration Agreement ("Agreement") with the United States

Attorney's Office for the Eastern District of Missouri ("Office"). The Agreement states that the Office investigated the conduct of Edward Jones relating to revenue sharing payments made by certain mutual funds that were designated as preferred funds ("Preferred Funds"). Among other things, Edward Jones acknowledged in the Agreement that it recommended the Preferred Funds to its customers and did not provide disclosure about the receipt of revenue sharing to its customers.

3. The Agreement provides that the Office will delay consideration of any actions stemming from the investigation for a period of two years in consideration of, among other things, Edward Jones offering all of its customers who owned shares of any Preferred Funds on December 31, 2004 ("Eligible Customers") the opportunity, for a period of 90 days, to sell their interests in the Preferred Funds and purchase shares of any other mutual fund with which Edward Jones has a selling agreement (the "Switch Funds") without the payment of a front-end sales load (the "Switch"). In connection with the Switch, the front-end sales load will either be waived by a Switch Fund's principal underwriter and Edward Jones (the "NAV Switch Funds")¹ or Edward Jones will rebate the front-end sales load back to the customer (the "Rebate Switch Funds").

Applicant's Legal Analysis

1. Section 22(d) of the Act, in relevant part, prohibits any registered investment company, any principal underwriter and any dealer from selling a redeemable security except at a current public offering price described in the prospectus. Rule 22d-1 under the Act provides an exemption from section 22(d) allowing a mutual fund, its principal underwriter and dealers to sell shares at prices that reflect variations in, or elimination of, the sales load, if certain conditions are met. Rule 22d-1(a) requires that the mutual fund, its principal and dealer apply any scheduled variation uniformly to all offerees in the class specified. Rule 22d-1(b) requires the mutual fund to furnish to existing shareholders and prospective investors adequate information concerning any scheduled variation, as prescribed in applicable registration form requirements. Rule 22d-1(c) requires the mutual fund, before making any new sales load variation available to

the purchasers of the fund's shares, to revise its registration statement to describe that new variation. Finally, rule 22d-1(d) requires the mutual fund to advise its existing shareholders of any new sales load variation within one year of the date when that variation is first made available to purchasers of the fund's shares.

2. Form N-1A is the registration statement used by mutual funds. Item 7(a)(2) of Form N-1A requires disclosure of waivers or variations of sales loads. Item 18(a) of Form N-1A requires additional disclosure of how a mutual fund's shares are offered to the public, including waivers or variations of sales loads.

3. Section 6(c) of the Act provides that the Commission may exempt any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Edward Jones requests an order pursuant to section 6(c) of the Act exempting it, the Switch Funds and their principal underwriters from section 22(d) of the Act to the extent necessary to implement the Switch, and exempting the Switch Funds from the requirements of Items 7(a)(2) and 18(a) of Form N-1A as they would apply to the elimination of the front-end sales load in connection with the Switch. Edward Jones states that the provisions of section 22(d) were intended to prevent disruption of orderly distribution by dealers selling shares at a discount and discrimination among investors resulting from different prices charged to different investors. Edward Jones states that the Switch does not implicate any of these concerns and that the requested relief meets the standards of section 6(c) of the Act.

5. Edward Jones states that it will ensure that the elimination of the front-end sales load in the Switch will be applied uniformly to all offerees in the class specified, as required by rule 22d-1(a). Edward Jones further states that each NAV Switch Fund will advise its existing shareholders of the front-end sales load elimination within one year of the Switch, as required by rule 22d-1(d). As a condition to the requested order, participation by an NAV Switch Fund in the Switch must receive prior approval of the NAV Switch Fund's board of directors, including a majority of the directors who are not interested persons. Edward Jones argues that compliance with the requirements of rule 22d-1(b) and (c) is unduly

¹The term NAV Switch Funds also includes any Switch Funds whose principal underwriters make a "full dealer reallocation" of the front-end sales load amount to Edward Jones.

burdensome under the circumstances. Edward Jones states that it will notify all Eligible Customers in writing of their opportunity to participate in the Switch. In the notice to Eligible Customers, Edward Jones will disclose that the customer's purchase of Rebate Switch Funds may be more expensive to Edward Jones than their purchase of NAV Switch Funds, thus creating a conflict of interest. The notice also will identify those Switch Funds that are NAV Switch Funds and those that are Rebate Switch Funds.

Applicant's Conditions

Applicant agrees that any order granting the requested relief will be subject to the following conditions:

1. Prior to implementing the Switch, Applicant will obtain an undertaking in writing from each of the NAV Switch Funds that the NAV Switch Fund will comply with Rule 22d-1(d) under the Act with respect to the Switch.

2. Prior to an NAV Switch Fund's participating in the Free Switch, the board of directors or trustees of the NAV Switch Fund ("Board"), including a majority of the Board members who are not "interested persons," as defined in Section 2(a)(19) of the Act, will review any sales load waiver proposed to be made by the NAV Switch Fund or its principal underwriter in connection with the Switch to determine whether the waiver is in the best interest of the NAV Switch Fund and its shareholders. To assist the Board in making this determination, the NAV Switch Fund's principal underwriter will provide the Board with such information as may reasonably be necessary to enable the Board to make an informed decision. The factors considered and the basis for the Board's determination will be reflected in the Board's minutes, which will be preserved for a period of not less than six years from the date of the NAV Switch Fund's participation in the Switch, the first two years in an easily accessible place.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5-2167 Filed 5-3-05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [70 FR22380, April 29, 2005].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Tuesday, May 3, 2005 at 2 p.m.

CHANGE IN THE MEETING MEETING: Cancellation of meeting.

The Closed Meeting scheduled for Tuesday, May 3, 2005 has been cancelled.

For further information please contact the Office of the Secretary at (202) 942-7070.

Dated: April 29, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05-9019 Filed 5-2-05; 3:05 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27962]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

April 27, 2005.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 23, 2005, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After May 23, 2005, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

E.ON AG, et al. (70-10282)

E.ON AG ("E.ON"), a registered holding company under the Act, located at E.ON-Platz 1, 40479 Düsseldorf, Germany, and certain of its direct and indirect utility and nonutility subsidiary companies listed in the Application, including E.ON U.S. Holding GmbH ("E.ON U.S. Holding"), a registered holding company and a direct subsidiary of E.ON, also located at E.ON-Platz 1, 40479 Düsseldorf, Germany, and the parent company of E.ON U.S. Investments Corp. ("E.ON U.S. Investments"), a registered holding company and parent of LG&E Energy LLC ("LG&E Energy"), a registered holding company and parent of Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU"), all located at 220 West Main Street, Louisville, Kentucky 40202 (collectively, "Applicants"), have filed an application, as amended ("Application") under sections 6(a), 7, 9(a), 10, 12(b), 12(c), 12(d) and 13(b) of the Act and rules 20, 26, 42, 43, 45, 46, 52, 53, 87 and 90.

Applicants seek authority for certain financing transactions of E.ON and its associated companies during the period from the effective date of the order granting the Application through May 31, 2008 ("Authorization Period"). The Commission previously provided authorizations for E.ON and certain other entities in the E.ON group ("E.ON Group" or "Group"), on June 14, 2002, to undertake specific financing transactions, which authorizations expire on May 31, 2005 ("2002 Order").¹

I. Background

E.ON is headquartered in Düsseldorf, Germany, and most of its operations are located in Europe.² Applicants state that, in 2003, E.ON reorganized its

¹ See *E.ON AG, et al.*, Holding Co. Act Release No. 27539 (June 14, 2002).

² Applicants state that E.ON had approximately 478,000 shareholders worldwide, as of June 30, 2004, and that E.ON's shares, all of which are ordinary shares, are listed on all seven German stock exchanges. The shares are also actively traded over-the-counter in London and E.ON's American Depositary Shares ("ADSs"), each of which represents one ordinary share, are listed on the New York Stock Exchange.

Applicants state that, unless otherwise noted, amounts expressed in United States dollars ("USD") are unaudited and have been converted from Euros, for convenience, at an exchange rate of USD 1.2179 = EUR 1.00, the Noon Buying Rate of the Federal Reserve Bank of New York on June 30, 2004. For the six months ended June 30, 2004, E.ON reported consolidated revenues of EUR 25.594 billion (USD 31.171 billion) calculated in accordance with U.S. generally accepted accounting procedures ("US GAAP"). As of June 30, 2004, E.ON had total consolidated assets of EUR 113.958 billion (USD 138.789 billion).