

pendency of a hearing, the staff is expected to promptly proceed with the approval or denial of license transfer requests consistent with the staff's findings in its safety evaluation. Notice of the staff's action shall be promptly transmitted to the presiding officer and parties to the proceeding. Commission action on the pending hearing request is being handled independently of this action.

Also, an intervenor from Oswego, New York, submitted two letters to the Commission with public comments dated January 21, 2008, along with an electronic transmission containing public comments dated January 27, 2008. The public comments are addressed by the NRC's safety evaluation dated July 28, 2008.

Pursuant to 10 CFR 50.80(a), 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 in the application as supplemented and other information before the Commission, and relying upon the representations and agreements in the application as supplemented, the NRC staff concludes that the proposed indirect transfer of control of the license held by EN-Vermont Yankee to Enexus, as described herein, will not affect the qualifications of EN-Vermont Yankee as holder of the Vermont Yankee license. The indirect transfer of control of the license is otherwise consistent with applicable provisions of law, regulations, and orders issued by the NRC. Furthermore, the NRC staff concludes that the proposed corporate restructuring involving new intermediate and ultimate parent companies over ENO, as described herein, will not affect the qualifications of ENO as holder of the Vermont Yankee license. The indirect transfer of control of the license as held by ENO, to the extent affected by the proposed restructuring, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

The NRC staff concludes that the conversion of Entergy Nuclear Operations, Inc. to Equagen Nuclear LLC would not constitute a direct transfer of the licenses to the extent held by ENO. Therefore, no consent to the proposed conversion is necessary.

The findings set forth above are supported by the NRC's safety evaluation dated July 28, 2008.

### 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(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the application regarding the indirect license transfer discussed above related to the proposed corporate restructuring and establishment of Enexus is approved, subject to the following conditions:

1. EN-Vermont Yankee shall enter into the \$700 million Support Agreement with Enexus Energy Corporation as described in the application, no later than the time the proposed transactions and indirect license transfer occurs. EN-Vermont Yankee shall take no action to cause Enexus Energy Corporation, or its successors and assigns, to void, cancel, or modify the Support Agreement or cause it to fail to perform, or impair its performance under the Support Agreement, without prior written consent of the NRC. The Support Agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. An executed copy of the Support Agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transactions and the indirect license transfer. EN-Vermont Yankee shall inform the NRC in writing anytime it draws upon the Support Agreement.

2. The ten separate support guarantees from various Entergy subsidiaries, which total \$315 million, including the support guarantee relating to Vermont Yankee, may be revoked when, and conditioned upon, implementation of the new \$700 million Support Agreement at the time the proposed restructuring and indirect license transfer are completed.

3. Should the proposed corporate restructuring and establishment of Enexus not be completed within one year from the date of this Order, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the application dated July 30, 2007, as supplemented by letters dated October 31, and December 5, 2007, and January 24, March 17, April 22, and May 2, 2008, and the NRC's safety evaluation dated July 28, 2008, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically from the Agencywide Documents

Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland this 28th day of July 2008.

For the Nuclear Regulatory Commission.

**Timothy J. McGinty,**

*Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. E8-17678 Filed 7-31-08; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-155 and 72-43]

### In the Matter of Entergy Nuclear Operations, Inc.; Entergy Nuclear Palisades, LLC (Big Rock Point); Order Approving Indirect Transfer of Facility Operating License

#### I

Entergy Nuclear Operations, Inc. (ENO) and Entergy Nuclear Palisades, LLC (EN-Palisades) are co-holders of the Facility Operating License, No. DPR-06, which authorizes the possession, use, and operation of Big Rock Point. Big Rock Point is an independent spent fuel storage installation (ISFSI) that is owned by EN-Palisades and operated by ENO. The facility is located in Charlevoix County, Michigan.

#### II

By application dated July 30, 2007, as supplemented by letters dated October 31, and December 5, 2007, and January 24, March 17, April 22, and May 2, 2008, ENO, acting on behalf of itself and EN-Palisades, requested that the U.S. Nuclear Regulatory Commission (NRC, the Commission), pursuant to Section 50.80 of Title 10 of the Code of Federal Regulations (10 CFR), consent to the proposed indirect transfer of control of the Big Rock Point license, including the general license for the ISFSI.

EN-Palisades is currently a direct wholly owned subsidiary of Entergy Nuclear Midwest Investment Company, LLC which, in turn, is a direct wholly owned subsidiary of Entergy Nuclear Holding Company which, in turn, is a direct wholly owned subsidiary of Entergy Corporation. Therefore, under the current corporate structure, Entergy

Corporation is the indirect owner of 100 percent of EN-Palisades.

Under the proposed corporate restructuring, a new holding company, Enexus Energy Corporation (Enexus), will be created. Initially, the shareholders of Entergy Corporation will separately own the shares of Enexus and, as such, Enexus will be owned by the public. Entergy Nuclear Holding Company will become a direct wholly owned subsidiary of Enexus. Accordingly, following the corporate restructuring, Enexus will acquire indirect control of 100 percent of EN-Palisades.

ENO, the operator of the Big Rock Point facility, is currently a direct wholly owned subsidiary of Entergy Nuclear Holding Company #2 which, in turn, is a direct wholly owned subsidiary of Entergy Corporation. Therefore, Entergy Corporation is currently the indirect owner of 100 percent of ENO.

Under the proposed corporate restructuring, Entergy Nuclear Holding Company #2 will be eliminated and ENO will become a direct subsidiary of a new parent company called Equagen, LLC. Equagen, LLC will be owned in equal shares by two new intermediate holding companies as follows. Entergy Equagen, Inc. is being created as a direct subsidiary of Entergy Corporation and will own 50 percent of Equagen, LLC. Similarly, Enexus Equagen, LLC is being created as a direct subsidiary of Enexus and will also own 50 percent of Equagen, LLC. Accordingly, following the corporate restructuring, Entergy Corporation and Enexus will each have indirect control of 50 percent of ENO.

Finally, ENO will be converted from a corporation to a limited liability company and its name will be changed from Entergy Nuclear Operations, Inc. to Equagen Nuclear, LLC. Under Delaware law, Equagen Nuclear, LLC will assume all of the rights and responsibilities of ENO, and it will be the same company (legal entity) both before and after the conversion and name change. Also, EN-Palisades will undergo a name change to become Enexus Nuclear Palisades, LLC. The staff understands that ENO will request an administrative license amendment to conform the Big Rock Point license in the near future.

Notice of the request for approval and an opportunity for a hearing was published in the **Federal Register** on January 16, 2008 (73 FR 2956). By petition dated February 5, 2008, Locals 369 and 590, Utility Workers Union of America (UWUA), American Federation of Labor-Congress of Industrial Organization, representing plant workers at the Pilgrim Nuclear Power

Station located in Plymouth, Massachusetts, responded to the **Federal Register** notice and requested a hearing and leave to intervene as a party in the Big Rock Point proceeding. On June 12, 2008, Local 369 filed a notice of withdrawal of its petition to intervene. The notice of withdrawal did not apply to Local 590.

The request for a hearing is currently pending before the Commission. Pursuant to 10 CFR 2.1316, during the pendency of a hearing, the staff is expected to promptly proceed with the approval or denial of license transfer requests consistent with the staff's findings in its safety evaluation. Notice of the staff's action shall be promptly transmitted to the presiding officer and parties to the proceeding. Commission action on the pending hearing requests is being handled independently of this action.

Also, an intervenor from Oswego, New York, submitted two letters to the Commission with public comments dated January 21, 2008. The public comments are addressed by the NRC's safety evaluation dated July 28, 2008.

Pursuant to 10 CFR 50.80(a), 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 in the application as supplemented and other information before the Commission, and relying upon the representations and agreements in the application as supplemented, the NRC staff concludes that the proposed indirect transfer of control of the license held by EN-Palisades to Enexus, as described herein, will not affect the qualifications of EN-Palisades as holder of the Big Rock Point license. The indirect transfer of control of the license is otherwise consistent with applicable provisions of law, regulations, and orders issued by the NRC. Furthermore, the NRC staff concludes that the proposed corporate restructuring involving new intermediate and ultimate parent companies over ENO, as described herein, will not affect the qualifications of ENO as holder of the Big Rock Point license. The indirect transfer of control of the license as held by ENO, to the extent affected by the proposed restructuring, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

The NRC staff concludes that the conversion of Entergy Nuclear Operations, Inc. to Equagen Nuclear, LLC would not constitute a direct transfer of the licenses to the extent held

by ENO. Therefore, no consent to the proposed conversion is necessary.

The findings set forth above are supported by the NRC's safety evaluation dated July 28, 2008.

### 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(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the application regarding the indirect license transfer discussed above related to the proposed corporate restructuring and establishment of Enexus is approved, subject to the following conditions:

1. EN-Palisades shall enter into the \$700 million Support Agreement with Enexus Energy Corporation as described in the application, no later than the time the proposed transactions and indirect license transfer occurs. EN-Palisades shall take no action to cause Enexus Energy Corporation, or its successors and assigns, to void, cancel, or modify the Support Agreement or cause it to fail to perform, or impair its performance under the Support Agreement, without prior written consent of the NRC. The Support Agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Material Safety and Safeguards or his designee. An executed copy of the Support Agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transactions and the indirect license transfer. EN-Palisades shall inform the NRC in writing anytime it draws upon the Support Agreement.

2. The ten separate support guarantees from various Entergy subsidiaries, which total \$315 million, including the support guarantee relating to Big Rock Point, may be revoked when, and conditioned upon, implementation of the new \$700 million Support Agreement at the time the proposed restructuring and indirect license transfer are completed.

3. The Parent Company Guarantee may be terminated when, and conditioned upon, replacement with an alternative financial assurance mechanism that is acceptable under the terms of 10 CFR 50.75(e)(1) at the time the proposed restructuring and indirect license transfer are completed.

4. Should the proposed corporate restructuring and establishment of Enexus not be completed within one year from the date of this Order, this Order shall become null and void, provided, however, upon written

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

This Order is effective upon issuance.

For further details with respect to this Order, see the application dated July 30, 2007, as supplemented by letters dated October 31, and December 5, 2007, and January 24, March 17, April 22, and May 2, 2008, and the NRC's safety evaluation dated July 28, 2008, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to [pdrc@nrc.gov](mailto:pdrc@nrc.gov).

Dated at Rockville, Maryland, this 28th day of July 2008.

For the Nuclear Regulatory Commission.

**E. William Brach,**

*Director, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. E8-17687 Filed 7-31-08; 8:45 am]

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**NUCLEAR REGULATORY COMMISSION**

[Docket Nos. 50-333 and 72-12]

**In the Matter of Entergy Nuclear Operations, Inc.; Entergy Nuclear Fitzpatrick, LLC (James A. FitzPatrick Nuclear Power Plant); Order Approving Indirect Transfer of Facility Operating License**

**I**

Entergy Nuclear Operations, Inc. (ENO) and Entergy Nuclear FitzPatrick, LLC (EN-FitzPatrick) are co-holders of the Facility Operating License, No. DPR-59, which authorizes the possession, use, and operation of the James A. FitzPatrick Nuclear Power Plant (FitzPatrick). FitzPatrick is a boiling water nuclear reactor that is owned by EN-FitzPatrick and operated by ENO. The facility is located in Scriba, Oswego County, New York.

**II**

By application dated July 30, 2007, as supplemented by letters dated October 31, and December 5, 2007, and January

24, March 17, April 22, and May 2, 2008, ENO, acting on behalf of itself and EN-FitzPatrick, requested that the U.S. Nuclear Regulatory Commission (NRC, the Commission), pursuant to Section 50.80 of Title 10 of the *Code of Federal Regulations* (10 CFR), consent to the proposed indirect transfer of control of the FitzPatrick license, including the general license for the independent spent fuel storage installation.

EN-FitzPatrick is currently a direct wholly owned subsidiary of Entergy Nuclear New York Investment Company 1 which, in turn, is a direct wholly owned subsidiary of Entergy Nuclear Holding Company #1. Seventy-five percent of Entergy Nuclear Holding Company #1 is directly owned by Entergy Corporation while the remaining 25 percent is directly owned by Entergy Global, LLC. Entergy Global, LLC is a direct wholly owned subsidiary of Entergy International Holdings LTD which, in turn, is a direct wholly owned subsidiary of Entergy Corporation. Therefore, under the current corporate structure, Entergy Corporation is the indirect owner of 100 percent of EN-FitzPatrick.

Under the proposed corporate restructuring, a new holding company, Enexus Energy Corporation (Enexus), will be created. Initially, the shareholders of Entergy Corporation will separately own the shares of Enexus and, as such, Enexus will be owned by the public. Entergy Nuclear Holding Company #1 will become a direct wholly owned subsidiary of Enexus. Entergy Global, LLC, Entergy International Holdings LTD, and Entergy Nuclear New York Investment Company 1 will be eliminated. Accordingly, following the corporate restructuring, Enexus will acquire indirect control of 100 percent of EN-FitzPatrick.

ENO, the operator of the FitzPatrick facility, is currently a direct wholly owned subsidiary of Entergy Nuclear Holding Company #2 which, in turn, is a direct wholly owned subsidiary of Entergy Corporation. Therefore, Entergy Corporation is currently the indirect owner of 100 percent of ENO.

Under the proposed corporate restructuring, Entergy Nuclear Holding Company #2 will be eliminated and ENO will become a direct subsidiary of a new parent company called EquaGen, LLC. EquaGen, LLC will be owned in equal shares by two new intermediate holding companies as follows. Entergy EquaGen, Inc. is being created as a direct subsidiary of Entergy Corporation and will own 50 percent of EquaGen, LLC. Similarly, Enexus EquaGen, LLC is being created as a direct subsidiary of

Enexus and will also own 50 percent of EquaGen, LLC. Accordingly, following the corporate restructuring, Entergy Corporation and Enexus will each have indirect control of 50 percent of ENO.

Finally, ENO will be converted from a corporation to a limited liability company and its name will be changed from Entergy Nuclear Operations, Inc. to EquaGen Nuclear, LLC. Under Delaware law, EquaGen Nuclear, LLC will assume all of the rights and responsibilities of ENO, and it will be the same company (legal entity) both before and after the conversion and name change. Also, EN-FitzPatrick will undergo a name change to become Enexus Nuclear FitzPatrick, LLC. The staff understands that ENO will request an administrative license amendment to conform the FitzPatrick license in the near future.

Notice of the requests for approval and an opportunity for a hearing was published in the **Federal Register** on January 16, 2008 (73 FR 2950). By petition dated February 5, 2008, Locals 369 and 590, Utility Workers Union of America (UWUA), American Federation of Labor-Congress of Industrial Organization, representing plant workers at the Pilgrim Nuclear Power Station located in Plymouth, Massachusetts, responded to the **Federal Register** notice and requested a hearing and leave to intervene as a party in the FitzPatrick proceeding. On June 12, 2008, Local 369 filed a notice of withdrawal of its petition to intervene. The notice of withdrawal did not apply to Local 590.

The request for a hearing is currently pending before the Commission. Pursuant to 10 CFR 2.1316, during the pendency of a hearing, the staff is expected to promptly proceed with the approval or denial of license transfer requests consistent with the staff's findings in its safety evaluation. Notice of the staff's action shall be promptly transmitted to the presiding officer and parties to the proceeding. Commission action on the pending hearing requests is being handled independently of this action.

Pursuant to 10 CFR 50.80(a), no license, or any right thereunder, 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 in the application as supplemented and other information before the Commission, and relying upon the representations and agreements in the application as supplemented, the NRC staff concludes that the proposed indirect transfer of control of the license held by EN-FitzPatrick to Enexus, as described