

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.

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

herein, will not affect the qualifications of EN-FitzPatrick as holder of the FitzPatrick 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 FitzPatrick 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-FitzPatrick 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-FitzPatrick 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-FitzPatrick 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 FitzPatrick, 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 at 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. E8-17689 Filed 7-31-08; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 70-27]

Notice of Receipt of an Application To Transfer the Control of Special Nuclear Materials License No. SNM-42; Opportunity To Request a Hearing, and Provide Written Comments

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of license transfer application and opportunity to request a hearing.

DATES: A request for a hearing must be filed by August 21, 2008, in accordance with 10 CFR 2.309(b)(1).

FOR FURTHER INFORMATION CONTACT:

Amy M. Snyder, Senior Project Manager, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop EBB2C40M, Washington, DC 20555-0001, Telephone: (301) 492-3225; fax number: (301) 492-5539; e-mail: amy.snyder@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

By letters dated November 14 and December 10, 2007, January 7 (two letters), January 11, February 15, and February 29, 2008, and e-mails dated December 12 (three e-mails) and December 13, 2007 (two e-mails), and January 9, and January 14, 2008 (collectively the Application), BWX Technologies, Inc., Nuclear Products Division (BWXT or the licensee) requested approval, by the U.S. Nuclear Regulatory Commission (NRC or the Commission), of the transfer of Special Nuclear Materials License No. SNM-42 to Babcock & Wilcox Nuclear Operations Group, Inc. (B&W NOG). B&W NOG is a Delaware Corporation that was created on November 20, 2007, as a wholly-owned subsidiary of Babcock & Wilcox Investment Company, Inc. The requested transfer action would result in a transfer of control of Special Nuclear Materials License No. SNM-42 from BWXT to B&W NOG.

BWXT is the holder of Special Nuclear Materials License No. SNM-42, which authorizes BWXT to receive, possess, and use special nuclear material and irradiated fuel (spent nuclear fuel) for the research, fabrication and assembly of nuclear fuel and related components at its facilities located in the Lynchburg, Virginia area. The license provides, among other things, that the facilities are subject to all rules, regulations, and orders of the NRC, now or hereafter in effect. Special Nuclear Materials License No. SNM-42 applies to the BWXT fuel manufacturing facilities, the research facility known as the Lynchburg Technology Center (LTC), the waste treatment facility, and the uranium storage facilities located in Campbell County, Virginia.

Pursuant to 10 CFR 2.1301, the Commission is noticing in the **Federal Register** the receipt of the Application