

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-440]

### Cleveland Electric Illuminating Company; Toledo Edison Company; Ohio Edison Company; OES Nuclear, Inc.; Pennsylvania Power Company; Duquesne Light Company and FirstEnergy Nuclear Operating Company; Perry Nuclear Power Plant, Unit 1; Notice of Consideration of Approval of Transfer of Facility Operating License and Issuance of Conforming Amendment, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of certain interests in Facility Operating License No. NPF-58 for the Perry Nuclear Power Plant, Unit 1 (PNPP) currently held by the Cleveland Electric Illuminating Company (CEI), Toledo Edison Company, Ohio Edison Company, OES Nuclear, Inc., Pennsylvania Power Company, and Duquesne Light Company (DLC), as owners of PNPP, and FirstEnergy Nuclear Operating Company (FENOC) as the licensed operator of PNPP. The proposed action would consent to the transfer of DLC's ownership interests in PNPP to CEI. The Commission is also considering amending the license for administrative purposes to reflect the proposed transfer.

According to an application filed by CEI, DLC, and FENOC, the proposed transfer is being undertaken pursuant to a DLC restructuring plan and agreements to exchange generating assets between DLC and FirstEnergy Corporation, the parent of CEI and FENOC and other co-licensees of Perry. The amendment requested in the application would delete DLC as an owner of PNPP to reflect the transfer. No physical changes to the PNPP facility or operational changes are being proposed in the application.

Pursuant to 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. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

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

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By July 6, 1999, any person whose interest may be affected by the Commission's action on the application may request a hearing, and, if not the applicants, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)-(2).

Requests for a hearing and petitions for leave to intervene should be served upon Mary E. O'Reilly, counsel for CEI, at FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308 (tel: 303-384-5224; fax: 330-384-3875; e-mail: [meoreilly@firstenergycorp.com](mailto:meoreilly@firstenergycorp.com)), Roy P. Lessy, counsel for CEI, at Akin, Gump, Strauss, Hauer, & Feld, LLP, 1333 New Hampshire Ave., N.W., Suite 400,

Washington, DC 20036 (tel: 202-887-4500; fax: 202-887-4288; e-mail: [rlessy@akingump.com](mailto:rlessy@akingump.com)), Larry R. Crayne, counsel for DLC, at Duquesne Light Company, 411 Seventh Ave., Pittsburgh, PA 15219 (tel: 412-293-6049; fax: 412-393-6645; e-mail: [larry\\_r\\_crayne@dlc.dqe.com](mailto:larry_r_crayne@dlc.dqe.com)), and John E. Matthews, counsel for DLC, at Morgan, Lewis & Bockius, LLP, 1800 M Street, N.W., Washington, DC 20036 (tel: 202-467-7524; fax: 202-467-7176; e-mail: [matt7524@mlb.com](mailto:matt7524@mlb.com)); and the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: [OGCLT@NRC.gov](mailto:OGCLT@NRC.gov)); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by July 14, 1999, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated May 5, 1999, 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 Perry Public Library, 3753 Main Street, Perry, OH 44081.

Dated at Rockville, Maryland this 8th day of June 1999.

For the Nuclear Regulatory Commission.

**Anthony J. Mendiola,**

*Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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