

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-334 and 50-412]

Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, The Cleveland Electric Company, The Toledo Edison Company, and Beaver Valley Power Station, Unit Nos. 1 and 2; Notice of Consideration of Approval of Transfer of Facility Operating Licenses and Issuance of Conforming Amendments, 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 the interests held by Duquesne Light Company (DLC) in Facility Operating Licenses Nos. DPR-66 and NPF-73 for the Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS-1 and BVPS-2), located in Beaver County, Pennsylvania, as part owner and exclusive licensed operator of BVPS-1 and BVPS-2. The Commission is also considering issuance of conforming amendments to the licenses under 10 CFR 50.90.

According to an application for approval filed by DLC and FirstEnergy Nuclear Operating Company (FENOC), Pennsylvania Power Company (Penn Power), which currently owns 17.5% of BVPS-1, is to acquire DLC's 47.5 % ownership interest, resulting in 65% ownership, in BVPS-1, and DLC's 13.74% ownership interest in BVPS-2 pursuant to a DLC restructuring plan and agreements between DLC and FirstEnergy Corporation of which FENOC and Penn Power are subsidiaries. Additionally, FENOC would become the exclusive licensed operator responsible for the operation, maintenance, and eventual decommissioning of BVPS-1 and BVPS-2. No physical changes to the BVPS-1 and BVPS-2 facility or operational changes are being proposed in the application.

The proposed conforming amendments would replace references to DLC in the licenses with references to Penn Power and FENOC, as appropriate, to reflect the proposed transfer.

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 amendments, 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 FENOC, at FirstEnergy, 76 South Main Street, Akron, OH 44308 (tel: 330-384-

5224; fax: 330-384-3875; e-mail: meoreilly@firstenergycorp.com); Roy P. Lessy, Counsel for FENOC, at Akin, Gump, Stausss, Hauer & Feld, L.L.P.; 1333 New Hampshire Avenue, NW, Suite 400, Washington, DC 20036 (tel: 202-887-4500; fax: 202-887-4288; e-mail: rlessy@akingump.com); Larry R. Crayne, Assistant General Counsel, Duquesne Light Company, 411 Seventh Avenue, Pittsburgh, PA 15219 (tel: 412-393-6049; fax: 412-393-6645; e-mail: larryrcrayne@dlc.dgc.com); John E. Mathews, Counsel for DLC, at Morgan, Lewis & Bockius, LLP; 1800 M Street, NW, Washington, DC 20036-5869 (tel: 202-467-7524, fax: 202-467-7176, e-mail: matt7524@mlb.com); the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer case only: 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 B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

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

For the Nuclear Regulatory Commission.
Daniel S. Collins,
Project Manager, Section 1, Project
Directorate I, Division of Licensing Project
Management, Office of Nuclear Reactor
Regulation.
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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-445 and 446]

Texas Utilities Electric Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, 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 License No. NPF-87 and Facility Operating License No. NPF-89 issued to Texas Utilities Electric Company (the licensee, or TU), for operation of the Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, respectively, located in Somervell County, Texas.

The proposed amendments would add a footnote to Technical Specification (TS) 4.8.2.1e, "D.C. Sources—Operating," which would, on a one-time basis for Unit 1 Battery BT1ED2, allow the licensee to substitute a performance discharge test "* * *" in lieu of the battery service test required by Specification 4.8.2.1d, twice within a 60 month interval." The footnote further states that "[t]his one time exception expires prior to entry into MODE 4 following the next Unit 1 outage of sufficient duration to perform a service test." The proposed amendments would also add a footnote to the comparable Improved TS (ITS) that were issued by the NRC staff as License Amendments 64 and 64, to the CPSES, Units 1 and 2, Facility Operating Licenses on February 26, 1999, but not as yet implemented by the licensee. In this regard, ITS Surveillance Requirement 3.8.4.7 would receive the same footnote added to TS 4.8.2.1e with a minor grammatical change.

In the licensee's letter dated May 28, 1999, the licensee explained the exigent circumstances associated with its May 27, 1999, application. The licensee noted that the normal 30-day **Federal Register** notice period could not be utilized because the application results from the issuance of an enforcement discretion. The NRC responded to the licensee's May 26, 1999, request for an enforcement discretion by issuing a

Notice of Enforcement Discretion (NOED) on June 2, 1999. The subject NOED indicated that the NRC staff plans to complete its review and issue the license amendments within 4 weeks of the date of the NOED, which is less time than permitted by the normal 30-day **Federal Register** notice period.

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.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment 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. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Crediting the battery performance discharge test in lieu of the required service test will not impact the ability of the battery to perform its safety functions. Therefore, this change will not increase the probability or consequences of an accident previously evaluated.

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

Crediting the performance discharge test in lieu of the required service test will not create a new or different kind of accident.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Crediting the performance discharge test in lieu of the required service test does not create any new failure scenarios and no margin is expected to be reduced. As such, there is no reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed

determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 14-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below. By July 14, 1999, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available 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 University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O.