

June 23, 2000

Mr. James Knubel
Chief Nuclear Officer
Power Authority of the State of
New York
123 Main Street
White Plains, NY 10601

Mr. Michael R. Kansler
Senior Vice President and
Chief Operating Officer
Entergy Nuclear FitzPatrick
123 Main Street
White Plains, NY 10601

SUBJECT: NOTICE OF CONSIDERATION OF APPROVAL OF TRANSFER OF FACILITY
OPERATING LICENSE AND CONFORMING AMENDMENT, AND
OPPORTUNITY FOR A HEARING - JAMES A. FITZPATRICK NUCLEAR
POWER PLANT (TAC NO. MA8949)

Dear Messrs. Knubel and Kansler:

Enclosed is a copy of a "Notice of Consideration of Approval of Transfer of Facility Operating License and Conforming Amendment, and Opportunity for a Hearing" related to the application dated May 11, 2000, filed by the Power Authority of the State of New York (PASNY) and the application dated May 12, 2000, filed by Entergy Nuclear FitzPatrick, LLC (Entergy Nuclear FitzPatrick) and Entergy Nuclear Operations, Inc. (ENO), and your responses to our June 14, 2000, request for additional information dated June 13, 2000, and June 16, 2000. The application (pursuant to 10 CFR 50.80) seeks approval of the proposed transfer of the James A. FitzPatrick Nuclear Power Plant, Facility Operating License No. DPR-59 to Entergy Nuclear FitzPatrick, LLC (Entergy Nuclear FitzPatrick), and Entergy Nuclear Operations, Inc. (ENO) from the current holder of the license, PASNY. The application also seeks (pursuant to 10 CFR 50.90) the issuance of a conforming amendment to the license to reflect the transfer.

This notice is being forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA by George F. Wunder for/

Guy S. Vissing, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-333

Enclosure: Notice

cc w/encl: See next page

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UNITED STATES NUCLEAR REGULATORY COMMISSION
THE POWER AUTHORITY OF THE STATE OF NEW YORK
JAMES A. FITZPATRICK NUCLEAR POWER PLANT
DOCKET NO. 50-333
NOTICE OF CONSIDERATION OF APPROVAL OF TRANSFER
OF FACILITY OPERATING LICENSE AND 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 Facility Operating License No. DPR-59 for the James A. FitzPatrick Nuclear Power Plant (FitzPatrick) currently held by the Power Authority of the State of New York (PASNY), as owner and operator of FitzPatrick. The transfer would be to Entergy Nuclear FitzPatrick, LLC (Entergy Nuclear FitzPatrick), the proposed owner of FitzPatrick, and to Entergy Nuclear Operations, Inc. (ENO), the proposed operator of FitzPatrick. The Commission is also considering amending the license for administrative purposes to reflect the proposed transfer.

According to applications for approval filed by PASNY, the current license holder, and Entergy Nuclear FitzPatrick and ENO, Entergy Nuclear FitzPatrick would assume title to the facility following approval of the proposed license transfer, and ENO would become responsible for the operation and maintenance of FitzPatrick. The application states that the regulatory responsibility for decommissioning the plant will transfer to Entergy Nuclear FitzPatrick upon transfer of the license and closing of transactions. Pursuant to the Decommissioning Agreements and subject to the monetary limits of those Agreements, PASNY will have a contractual obligation to Entergy Nuclear FitzPatrick to decommission FitzPatrick. PASNY will

have the option, upon occurrence of certain events specified in the Decommissioning Agreements, to terminate this contractual obligation. Upon such termination, PASNY would have no further contractual responsibility to Entergy Nuclear FitzPatrick to decommission the plant and no further involvement with the decommissioning process; also, the Decommissioning Funds must be transferred to Entergy Nuclear FitzPatrick. If PASNY does not terminate its contractual responsibility before the dismantling of FitzPatrick begins, PASNY's contractual responsibility would be carried out pursuant to the Decommissioning Agreements. Under those Agreements, PASNY and Entergy Nuclear, Inc. (ENI) are required to enter into an agreement whereby ENI would decommission the plant in accordance with the Decommissioning Agreements. Entergy Nuclear FitzPatrick, through its authorized agent, ENO, would at all times retain ultimate control over the decommissioning activities of ENI and its contractors.

Upon closing, all employees within the PASNY's Nuclear Generation Department, and certain other employees supporting the Nuclear Generation Department, will become employees of ENO. No physical changes to the FitzPatrick facility or operational changes are being proposed in the application.

Entergy Nuclear FitzPatrick, a Delaware Corporation, is an indirect wholly owned subsidiary of Entergy Corporation, and a wholly owned indirect subsidiary of Entergy Nuclear Holding Company #1. ENO, a Delaware Corporation, is an indirect wholly owned subsidiary of Entergy Corporation, and a direct wholly owned subsidiary of Entergy Nuclear Holding Company #2.

The proposed amendment would replace references to PASNY in the license with references to Entergy Nuclear FitzPatrick and/or ENO, and make other necessary administrative changes 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 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 18, 2000, 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 Mr. Douglas Levanway, Wise, Carter, Child and Caraway, P.O. Box 651, Jackson, MS 39205, Phone: 601-968-5524, Fax: 601-968-5519, E-mail: del@wisecarter.com; Mr. Gerald Goldstein, Asst. General Counsel, New York Power Authority, 1633 Broadway, New York, NY 10019-6756, Phone: 212-468-6131, Fax: 212-468-6206, E-mail: goldstein.g@nypa.gov; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases 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 28, 2000, 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 applications dated May 11, 2000, and May 12, 2000, as supplemented by letters dated June 13, 2000, and June 16, 2000, available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland this 23rd day of June, 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Guy S. Vissing, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

James A. FitzPatrick Nuclear Power Plant

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